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## **1 — EPA Recommends Disposal Moratorium in Oklahoma's Most Earthquake-Prone Areas, NPR, 10/10/2016**

<https://stateimpact.npr.org/oklahoma/2016/10/10/epa-recommends-disposal-moratorium-in-oklahomas-most-earthquake-prone-areas/>

Officials with the U.S. Environmental Protection Agency say Oklahoma oil and gas regulators should “consider a moratorium” of waste-fluid disposal in its most seismically active areas. The suggestion was made in the federal agency’s annual review of the Oklahoma Corporation Commission’s oversight of disposal wells, which Energy Wire’s Mike Soraghan obtained through a Freedom of Information Act request.

## **2 — No word on how to prevent more incidents at Camp Minden, KSLA, 10/8/2016**

<http://www.ksla.com/story/33348539/no-word-on-how-to-prevent-more-incidents-at-camp-minden>

It's been 9 days since the latest incident at Camp Minden. There's still no word on exactly how the Army National Guard plans to ensure it doesn't happen again. And preventing it could be easier said than done.

## **3 — Four years later last evacuation orders lifted at Bayou Corne sinkhole Advocate, Advocate, 10/7/16/2016**

[http://www.theadvocate.com/baton\\_rouge/news/article\\_47529aec-8cc4-11e6-950e-af0313ea4737.html?utm\\_medium=social&utm\\_source=twitter&utm\\_campaign=user-share](http://www.theadvocate.com/baton_rouge/news/article_47529aec-8cc4-11e6-950e-af0313ea4737.html?utm_medium=social&utm_source=twitter&utm_campaign=user-share)

More than four years since the Bayou Corne sinkhole appeared, Assumption Parish officials declared on Friday that the once growing, burping, oily swampland hole that made worldwide headlines had settled down enough to no longer pose a risk to the public. Parish officials completely lifted the remaining voluntary evacuation orders in last parts of the Bayou Corne community where the few remaining residents had remained, saying risk from instability and seeping, flammable natural gas released in the sinkhole’s formation have been mitigated.

## **4 — Hurricane Matthew Tests New Flood Forecasting System, Houston Public Media, 10/10/2016**

<http://www.houstonpublicmedia.org/articles/news/energy-environment/2016/10/10/172727/hurricane-matthew-tests-new-flood-forecasting-system/>

As Hurricane Matthew approached Florida, researchers were anxious to see how a new flood forecasting system would work. We reported on the new system after the Tax Day Flood hit Houston. It uses a supercomputer and is called the National Water Model. “We started seeing some of the impacts of that hurricane landfall in these forecasts from the National Water Model,” says David Gochis at the National Center for Atmospheric Research in Colorado.

## **5 — Algae proliferation prompts Park Service to look at Buffalo River, Arkansas Democrat Gazette, 10/10/2016**

<http://www.arkansasonline.com/news/2016/oct/10/algae-proliferation-prompts-park-servic/>

A manager at the Buffalo National River plans to survey any algae that may remain on the river after reports indicated worse-than-usual algae was present on a several-mile stretch near U.S. 65. Chuck Bitting, who manages the natural resource program at the river for the National Park Service, said a U.S. Geological Survey worker tested the algae in mid-September after reports came in around Labor Day. The researcher found the algae was mostly harmless, but officials have been unable to go back to the area after a heavy rainfall and other obligations, Bitting said.

## **6 — Army Corps spends millions to begin West Bank mitigation projects, Times Picayune, 10/7/2016**

[http://www.nola.com/environment/index.ssf/2016/10/army\\_corps\\_spends\\_millions\\_to.html#incart\\_river\\_index](http://www.nola.com/environment/index.ssf/2016/10/army_corps_spends_millions_to.html#incart_river_index)

The federal government will pay a firm more than \$7 million to tear out and replant trees in a forested part of Avondale, a task intended to complement the West Bank's hurricane protection project.

The Army Corps of Engineers awarded the contract to project management firm Hernandez Consulting, LLC, on September 27.

**7 — Floodwaters could breach hog waste lagoons, contaminate rivers, WECT, 10/11/2016**

<http://www.wect.com/story/33356597/floodwaters-could-breach-hog-waste-lagoons-contaminate-rivers> The wind and rain have stopped, but we are still dealing with the effects of Hurricane Matthew. You've probably seen video of the flooding we've already experienced, and it will likely get significantly worse when the rivers crest later this week. Cape Fear Riverkeeper Kemp Burdette is sounding the alarm for what this could mean for people in Southeastern North Carolina who live near or downriver from livestock farms.

**8 — As Tensions Rise, Tribes Protesting Pipeline Dig In: 'We're Staying', NY Times, 10/10/2016**

<http://www.nytimes.com/2016/10/11/us/tribes-protest-oil-pipeline-north-dakota.html?ref=energy-environment&r=0>

Ranchers are arming themselves before they climb onto tractors or see to their livestock. Surveillance helicopters buzz low through the prairie skies. Native Americans fighting to prevent an oil pipeline near the Standing Rock Sioux Reservation are handing out thick blankets and coats and are building maple-pole shelters that can withstand North Dakota's bitter winter.

**9 — State cutbacks, recalcitrance hinder Clean Air Act enforcement, CPI, 10/11/2016**

<https://www.publicintegrity.org/2016/10/11/20303/state-cutbacks-recalcitrance-hinder-clean-air-act-enforcement>

When Deneen Carter-El moved to the Ezra Prentice Homes in Albany's South End two decades ago, she thought the beige-colored townhouses and trimmed lawns would be a welcome change from high-rise public housing. But appearances were deceiving.

**10 — Formosa workers released from hospital after chlorine leak, Victoria Advocate, 10/10/2016**

<https://www.victoriaadvocate.com/news/2016/oct/10/formosa-workers-released-from-hospital-after-chlor/>

About 10:30 a.m. , Oct. 5 at the Point Comfort plant, a contract employee was painting a piece of equipment and a tube detached, resulting in chlorine going into the wastewater tank, according to an incident report filed with the state environmental agency. However, the exact cause of the event is still under investigation.

**11 — McCarthy defies Inhofe with appointee to scientific board, Greenwire, 10/10/2016**

<http://www.eenews.net/greenwire/2016/10/10/stories/1060044063>

U.S. EPA Administrator Gina McCarthy has filled a vacancy on the Clean Air Scientific Advisory Committee with a past member from Illinois, rebuffing objections to the appointment from Sen. Jim Inhofe (R-Okla.) and calls for broader geographic representation on the influential panel. McCarthy named Donna Kenski last week to the seven-member committee, with the news quietly posted on an agency website Friday. Kenski, head of data analysis at the Chicago-based Lake Michigan Air Directors Consortium, had previously served on the panel from 2008 to 2010.

**12 — EPA agrees to review flaring emissions formula, Greenwire, 10/10/2016**

<http://www.eenews.net/greenwire/2016/10/10/stories/1060044044>

U.S. EPA will revisit a key gauge for estimating emissions of volatile organic compounds from natural gas production flaring operations under a tentative settlement to a lawsuit brought by four Gulf Coast environmental groups. The proposed consent decree was lodged Friday afternoon with the U.S. District Court for the District of Columbia as part of a prearranged agreement one day after the suit was filed. It calls on EPA to review the "emissions factor" by next June, with a final decision on any revisions following by February 2018.

**13 — Texas nun uses industry money to combat fracking, Greenwire, 10/10/2016**

<http://www.eenews.net/greenwire/2016/10/10/stories/1060044036>

Sister Elizabeth Riebschlaeger, an 80-year-old Texan nun, is on a mission to stop fracking in her town by using oil company money. "I call it redeeming the money," Riebschlaeger said while munching a turkey sandwich in a bar.

#### **14 What 'Deepwater Horizon' gets right—and wrong, Houston Chron, 10/10/16**

<http://www.houstonchronicle.com/local/gray-matters/article/What-Deepwater-Horizon-gets-right-and-wrong-9942726.php?t=ea5c881703438d9cbb>

When I went to see the movie “Deepwater Horizon” with some of my graduate students last week, I did not expect accuracy. Drilling for oil and gas is not typically viewed favorably or depicted correctly in Hollywood movies. When I tell non-oilfield people that I am a professor of petroleum engineering, someone usually brings up the dreadful movie “Armageddon,” in which Bruce Willis’ character, Harry Stamper (“the best deep-sea driller in the world”), is coerced into giving up his offshore drilling job to embed a nuclear bomb into an asteroid that threatens all life on Earth.

#### **15 Experts will discuss tough choices facing Louisiana as seas rise and land sinks, Lens, 10/10/16**

<http://thelensnola.org/2016/10/10/experts-will-discuss-tough-choices-facing-coastal-louisiana-as-seas-rise-and-land-sinks/>

Should the mouth of the Mississippi River be moved north to Port Sulphur, or even English Turn on the lower coast of Algiers? Can the state’s Coastal Master Plan save communities south of U.S. 90, or should they start planning to move now? Will the U.S. Army Corps of Engineers need to dredge a new shipping channel for the Port of New Orleans?

#### **16 HURRICANE CREATES PROBLEMS FOR TEXAS ORGANIZATION FIGHTING CHOLERA IN HAITI, Texas Standard, 10/7/16**

<http://www.texasstandard.org/stories/categories/energy-environment/#>

If you took hundreds of multicolored matchsticks and shook them around in a shallow box, it would look a lot like the aerial photos now coming in from the southwestern part of Haiti. As the U.S. buckles down to deal with Hurricane Matthew, three days after striking the island of Hispaniola, we’re only now realizing the scale and scope of the destruction there.

#### **17 Flood, rebuild, repeat: Louisiana top state in repetitive flood losses; experts cite 2 key reasons, Advocate, 10/10/16**

[http://www.theadvocate.com/baton\\_rouge/news/environment/article\\_8721adde-8742-11e6-aaa9-aba6cfaa21ba.html?sr\\_source=lift\\_amplify/8/16](http://www.theadvocate.com/baton_rouge/news/environment/article_8721adde-8742-11e6-aaa9-aba6cfaa21ba.html?sr_source=lift_amplify/8/16)

Louisiana leads the country in properties that are repeatedly swamped by water and rebuilt using flood insurance payments, with state residents receiving \$1.2 billion since 1978 for damage to houses and businesses that have flooded multiple times. Experts say a large part of the problem lies with a federal flood insurance system that encourages rebuilding in flood-prone areas while mitigation measures receive less-than-needed funding. People who want to raise a house or get bought out often hit bureaucratic stumbling blocks, or just wait in line for so long that they end up just fixing up in the same location.

#### **18 Miami Commission To Debate Effects Of Fracking On Water Supply, Water Online, 10/10/16**

<http://www.wateronline.com/doc/miami-commission-to-debate-effects-of-fracking-on-water-supply-0001>

Fracking continues to stoke debate in certain parts of the country, with officials in Miami-Dade County, FL, proposing a ban on the practice. A county commission will debate this issue tomorrow, according to the International Business Times. The suggestion of the ban comes months after the state Senate failed to pass legislation that would have prohibited local governments from regulating fracking by themselves.

#### **19 TAILINGS OF TWO CITIES: BEST OF TIMES, WORST OF TIMES, Hibbing Daily Tribune, 10/9/10/16**

[http://www.hibbingmn.com/around\\_the\\_web/health/tailings-of-two-cities-best-of-times-worst-of-times/article\\_9cbbf2a9-742f-5a56-92cc-0ca288388eb7.html](http://www.hibbingmn.com/around_the_web/health/tailings-of-two-cities-best-of-times-worst-of-times/article_9cbbf2a9-742f-5a56-92cc-0ca288388eb7.html)

Though hundreds of miles apart, the boom times and the bad times bring two old mining towns close in shared stories. Turn onto Harrison Avenue. Sidle up to the bar at the Silver Dollar Saloon. Drive by black slag piles from decades of smelting on the way into town.

**20 Judge Rejects Public Access to EPA 'Revolving Door' Investigation, Texas Lawyer, 10/7/2016**

<http://www.texaslawyer.com/id=1202769477273/Judge-Rejects-Public-Access-to-EPA-Revolving-Door-Investigation?slreturn=20160911093943>

An environmental group has lost its bid to view documents about a "revolving door" investigation in which a former federal chemical safety official later advocated for his client Chevron Corp. in front of his previous employer. Public Employees for Environmental Responsibility sought records from the U.S. Environmental Protection Agency's inspector general office concerning a potential violation of federal "revolving-door" prohibitions by a former chairman and member of the U.S. Chemical Safety and Hazard Investigation Board.

**21 Watershed protection plan addresses declines, Standard-Times, 10/7/16**

<http://www.gosanangelo.com/news/local/windmill-country-llano-river-plan-gets-nod-from-epa-368559e2-3869-7ef7-e053-0100007f5949-396424601.html>

Because the Upper Llano River is a healthy ecosystem, the Environmental Protection Agency has accepted a watershed protection plan that will help address future declines in water quality and stream flow, according to a news release. The plan was accepted as it met the agency's national guidelines for watershed-based plans and effectively outlined a strategy to conserve and protect water quantity and quality in the watershed, according to plan developers.

**22 Stokes and Byers: Solution for San Jacinto River Waste Pits should be a full cleanup, Houston Chron, 10/8/16**

<http://www.houstonchronicle.com/opinion/outlook/article/Stokes-and-Byers-Solution-for-San-Jacinto-River-9957259.php>

The Environmental Protection Agency recently made a recommendation for a final cleanup of what has been called the "worst Superfund site in Texas." The San Jacinto Waste Pits lie under and along the banks of the San Jacinto River, east of Houston and just north of Interstate 10. The EPA's recommended solution is the one that the Galveston Bay Foundation has been urging for years: complete removal of the waste and disposal in an off-site, permitted disposal facility. The recommendation is going through a 60-day comment period and will be discussed at a public meeting in the Highlands area of Harris County on Oct. 20. It is imperative that we support this recommendation and finalize the cleanup of a problem that has been studied and debated for years.

**23 Arkansas, EPA Spar Over Federal Regional Haze Plan, an Industrial Info News Alert, Power Engineering, 10/10/16**

<http://www.power-eng.com/marketwired/2016/10/10/arkansas-epa-spar-over-federal-regional-haze-plan-an-industrial-info-news-alert.html>

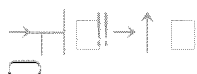
Written by John Egan for Industrial Info Resources (Sugar Land, Texas) -- A two-unit, 1,700-megawatt (MW) coal-fired power plant operated by the Arkansas affiliate of Entergy Corporation (NYSE:ETR) (New Orleans, Louisiana) is at the center of a dispute between Arkansas and the U.S. Environmental Protection Agency (EPA) (Washington, D.C.) as federal officials work to improve visibility in federal Class 1 areas in Arkansas and Missouri. The EPA said its Federal Improvement Plan (FIP) would lower emissions of sulfur dioxide (SO<sub>2</sub>) by 68,500 tons per year. Emissions of nitrogen oxide (NO<sub>x</sub>) would be cut by 15,100 tons annually.

**24 Paper Mill Cleared of Toxic Sludge Claim, Courthouse New Service, 10/10/16**

<http://www.courthousenews.com/2016/10/10/paper-mill-cleared-of-toxic-sludge-claim.htm>

Contamination from toxic sludge pits next to the San Jacinto River in Houston was not the fault of the paper mill that produced the waste, a state appeals court ruled. Harris County and the Texas Commission on Environmental Quality sued International Paper Co. and McGinnes Industrial Maintenance Corp. after the Environmental Protection Agency classified the waste pits as a federal superfund site in 2008. The EPA found that the pits, which are right next to the river, near a bridge for Interstate 10 in east Houston, had leaked dioxin into the river.





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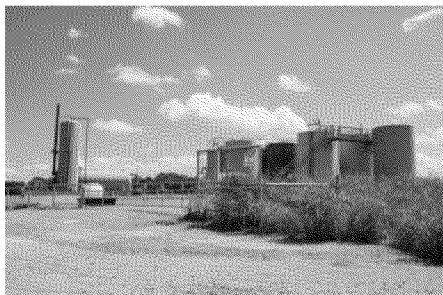
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OCTOBER 10, 2016 | 11:53 AM

BY JOE WERTZ

Officials with the U.S. Environmental Protection Agency say Oklahoma oil and gas regulators should “consider a moratorium” of waste-fluid disposal in its most seismically active areas.

The suggestion was made in the federal agency’s annual review of the Oklahoma Corporation Commission’s oversight of disposal wells, which Energy Wire’s Mike Soraghan obtained through a Freedom of Information Act request:



JOE WERTZ / STATEIMPACT OKLAHOMA

*State officials from Republican Gov. Mary Fallin on down previously have rejected activists’ calls for a moratorium, saying they lack the authority. Stopping disposal operations in an area could severely restrict oil production there. The most heavily shaken areas sit atop the Mississippi Lime formation in north-central and northwest Oklahoma.*

*OCC officials noted that they’ve shut down wells, cut injection volumes by 800,000 barrels a day in earthquake-prone areas and introduced a comprehensive response to the shaking. But the agency didn’t respond directly to the suggestion of a moratorium.*

The proposed moratorium is likely to get a “hostile” reaction from the energy industry and Oklahoma officials, Energy Wire reports.

*Kim Hatfield, vice chairman of the Oklahoma Independent Petroleum Association, called the EPA recommendation an “overreach.”*

*“I find it surprising they came out with this, given the dramatic reduction in seismicity we’ve had,” Hatfield said.*

*Sen. Jim Inhofe (R-Okla.), who chairs the Senate committee that oversees EPA, also criticized the idea.*

*“EPA’s involvement in Arbuckle is unnecessary,” Inhofe said. “The state has been very responsive to seismic issues and their possible links to some of these wastewater disposals.”*

In the annual review, EPA officials praised the “day-to-day” efforts of Corporation Commission staff in dealing with the earthquakes and related actions, and noted the agency’s struggles with reduced funding from state and federal sources, Energy Wire reports, but the federal agency criticized the state for not penalizing violators and permitting new wells in regions with concentrated earthquake activity:

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Heavy Fundraising on State Question  
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State Regulators Expand Limits on  
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Weekend Quake

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EPA Recommends Disposal Moratorium in  
Oklahoma’s Most Earthquake-Prone Areas

Groups Opposing State Question On  
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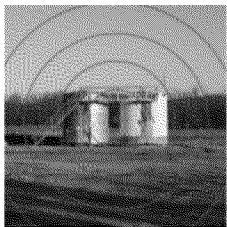
And the review noted that despite the actions taken by the state, the quakes have continued. Hundreds of wells are still injecting wastewater in what the state calls its "area of interest" covering north-central and northwest Oklahoma. EPA said it believes wastewater being injected in those areas might be continuing to cause earthquakes.

EPA said that is why it recommended the idea of a moratorium. When offered the chance, OCC officials did not object or even respond, according to a letter accompanying the review.

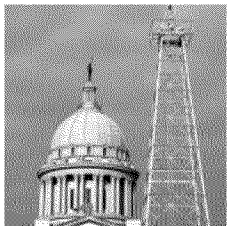
EPA can't force Oklahoma regulators to order a moratorium, Energy Wire reports, but the federal agency could revoke the state's authority and take over regulation of disposal wells.

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mvogell • 15 hours ago

Hell no! As I live 1500 miles away, I say there is zero proof injecting hundreds of thousands of barrels of water underground in areas that suddenly are getting hundreds of quakes a year is what is causing those quakes. Drill baby Drill!!

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# No word on how to prevent more incidents at Camp Minden

Published: Saturday, October 8th 2016, 6:44 pm CDT

Updated: Saturday, October 8th 2016, 10:27 pm CDT

By [Jeff Feltre](#), Reporter [CONNECT](#)

CAMP MINDEN, LA (KSLA) - It's been 9 days since the latest incident at Camp Minden.

There's still no word on exactly how the Army National Guard plans to ensure it doesn't happen again.

And preventing it could be easier said than done.

The Louisiana Army National Guard describes what happened most recently at the compound near Doyline as a combustion explosive incident, something it says is very different from an explosion. Clean-burning igniter, or C-B-I, self-ignited inside a bunker and burned at a very fast rate and at very high temperature.

The very moment that happened just after 5 a.m. Sept. 29 can be seen on video from a dash cam of a Louisiana State Police cruiser.

LSU-Shreveport chemistry professor Brian Salvatore described C-B-I as "... a cousin of M6."

M6 is the Cold War era artillery propellant that was found improperly stored at Camp Minden after a huge explosion late the evening Oct. 15, 2012. That blast shattered windows 4 miles away in Minden and created a 7,000-foot mushroom cloud.

Investigators later found 15 million pounds of M6 and 300,000 pounds of C-B-I, much of it in bags and out in the open. Authorities have since moved the bagged chemicals into bunkers - 90 of M6 and 3 of igniter.

Images taken from a State Police helicopter show the aftermath of the most recent incident on the east side of the camp.

Just as it did in 2012, the National Weather Service said its radar picked up a column of smoke right after it happened.

The C-B-I combustion explosive incident occurred more than 4 miles from the site where a contractor is operating a yearlong, 24-hour-a-day burn operation to incinerate all the M-6 propellant and the remaining 100 tons of igniter.

Until that's done, the C-B-I sits in two remaining bunkers and ol limits to general on-site personnel.

"I would hope that they could find a way to stabilize the material," said Salvatore, who was part of a citizens' group that fought hard for a clean burn process for the M6.

The professor said he's heard of one way to prevent another C-B-I incident. "It could be doused with water, put under water and it would be kept stable."

David Gray, of the EPA, said an Army Explosive Safety Board team inspected the site just days ago to help determine whether additional safety measures are warranted. "While I know that everyone is hearing about a variety of different possible options for addressing the remaining C-B-I, you should know that no decision has made at this point in time," he said in a statement released to the media.

If Salvatore is correct and keeping the C-B-I wet is the answer, that leads to the next challenge:

"The question is what we have in each bunker is 120,000 pounds. You can't just pick up a big pile and put it all in water at once," the professor said.

If that solution proves too risky, Salvatore said, the most extreme option could be a controlled detonation of each C-B-I bunker. "But that would be the first time in American history that we've ever had to do something like that."

He also cautioned that a controlled detonation would come with its own set of problems, the most obvious being all the dust it would create in the nearby community and the potential health hazards.

That destruction of all the M6 propellant and C-B-I is scheduled to wrap up in April.

"We are confident that the Louisiana Military Department and their contractor Explosive Services International will continue to keep the disposal of these munitions as safe as possible until their task is complete," says a statement recently released by Ron Hagar, chairman of the Camp Minden Citizens Advisory Group. "We look forward to their report on the progress of the disposal work at our next public meeting."

That gathering is set for 6:30 p.m. Oct. 17 in the Family Life Center at First Baptist Church in Doyline. It is open to the public.

The propellant was left behind by Explo Systems Inc., which went bankrupt in 2013.

Its owners and 4 company officials pleaded not guilty to federal charges earlier this month. They are accused of lying to get contracts to demilitarize the propellant, storing it unsafely and obstructing inspections.

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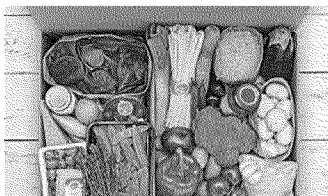
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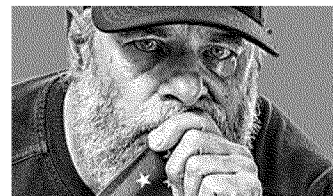
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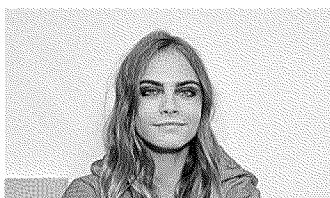
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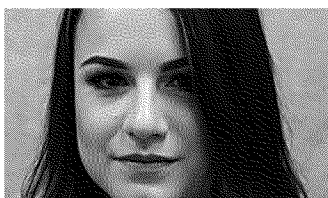
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# Four years later last evacuation orders lifted at Bayou Corne sinkhole

BY DAVID J. MITCHELL | [DMITCHELL@THEADVOCATE.COM](mailto:DMITCHELL@THEADVOCATE.COM) OCT 7, 2016 - 2:28 PM



Photo provided by WGBH -- A view from the air shows the Bayou Corne sinkhole in September 2014

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David Mitchell

More than four years since the Bayou Corne sinkhole appeared, Assumption Parish officials declared on Friday that the once growing, burping, oily swampland hole that made worldwide headlines had settled down enough to no longer pose a risk to the public.

Parish officials completely lifted the remaining voluntary evacuation orders in last parts of the Bayou Corne community where the few remaining residents had remained, saying risk from instability and seeping, flammable natural gas released in the sinkhole's formation have been mitigated.

"Through the preponderance of evidence, the area has been deemed no longer at risk due to the sinkhole and gas associated with its creation," parish officials said in a statement.

The order had been coming for months after parish officials in late June significantly dialed back evacuation orders tied to the 34-acre hole, which could resemble any other cypress-lined lake in Louisiana if not for a containment levee and other monitoring and equipment around it.

For a time, the sinkhole grew rapidly, swallowing whole trees, but eventually slowed down considerably and has largely stabilized in recent years. The methane gas released in the sinkhole's formation, however, remained an ever-present risk to residents.

Texas Brine was deemed the responsible party after one of its underground salt dome caverns had been tied the sinkhole's formation by state experts. Texas Brine and its insurers bought out much of the Bayou Corne and Grand Bayou communities, and lawsuits began to be filed.

Dennis Landry, who lives with his wife in Bayou Corne and owns vacation cabins and a boat launch in the Sportsman Drive area that had still been under the evacuation order, said he is happy to see the order lifted.

"I can't speak for everybody here, but I think people are ready. I think they're ready for that evacuation order to be lifted. I think most of them feel like it's time, enough time has passed," Landry said.

Texas Brine, which has pressed for more than year to remove the evacuation orders, welcomed the parish's decision, saying it was glad to see state and local officials agree with the company that its "response priorities have been satisfied and that the sinkhole does not pose a risk to Bayou Corne."

Texas Brine officials in their statement reiterated their position that the sinkhole was not their company's fault.

Still, Landry said, he would like to see Texas Brine continue to monitor the sinkhole. Landry echoed the sentiment of the parish Police Jury, which in August adopted a resolution asking the state Office of Conservation to hold Texas Brine to its previous promises for additional testing and



monitoring after the evacuation order was lifted.

But on Friday, Commissioner Richard Ieyoub, after considering the resolution and asking Texas Brine to respond to it, relieved the company of many of its monitoring requirements, agreeing that the company had mitigated the gas risk enough for the remaining populated areas of Bayou Corne.

A few considerably weakened gas bubble sites remain in area waterways and Texas Brine's own geologic expert says gas removal did not quite hit, but got very close, to the safety standard set by a special state panel. Ieyoub relieved Texas Brine of gas removal duties but required them to monitor wells that had been used to remove the gas but were no longer able to do so.

Patrick Courreges, spokesman for the Office of Conservation and state Department of Natural Resources, said the data show the risk from methane has been minimized to the extent the gas can be practically removed. The swamp area also naturally has gas bubbles.

Ieyoub also relieved Texas Brine of many of the seismic monitoring requirements and of area and indoor air monitoring of resident's homes for methane and other gases. He also lessened how much the company must monitor for sinkhole water levels, edge collapses and other subsidence, requiring that the company must monitor the top of the sinkhole containment levee until end of 2017.

The state officials are continuing to review company plans for the briney water inside the sinkhole and for surrounding groundwater, another concern of the Police Jury.

Though Texas Brine won't be complying with many of the Police Jury's requests, John Boudreaux, parish homeland security director, said the parish moved to lift the order because the state had found the risk had been mitigated and he has to rely on what scientists tell him.

A few months before the sinkhole appeared, Landry was one of the first people to report bubbling water in the Bayou Corne waterway. The reports prompted a more than two-month mystery as state officials grasped for the cause of the bubbles and later unusual underground tremors in the swamp.

A big clue appeared overnight on Aug. 2-3, 2012, on property Texas Brine was leasing and mining on behalf of Occidental Chemical south La. 70.

An approximately 1-acre watery hole, initially called a “slurry hole” by officials who had refused at first to call it a sinkhole, appeared in the swamp near one of Texas Brine’s salt dome mining wells. By the morning of Aug. 3, a pungent oily, earthy flotsam rested on hole’s surface with cypress floating vertically in the water only the tree tops visible.

Over time as the hole expanded and became a “sinkhole,” a more complete picture emerged. Years of pumping fresh water underground to mine salt from the the Napoleonville Dome, a huge salt deposit, had gotten close to the edge of the deposit, state experts said. The supporting salt wall of the one of those mining cavities gave way and surrounding earth and muck flowed into and started filling the cavern, ultimately creating the sinkhole at the surface.

Oil drilling has happened around salt domes throughout Louisiana for decades, but, in the ongoing litigation over the sinkhole, Texas Brine has blamed past oil drilling around the Napoleonville Dome for weakening the salt wall that failed and sparking a sinkhole.

“The cause of this unprecedented event was not initially known, but based on information exposed during the litigation discovery process, Texas Brine now strongly believes that the sinkhole was not the result of its actions, but was the responsibility of others,” the Texas Brine statement said.

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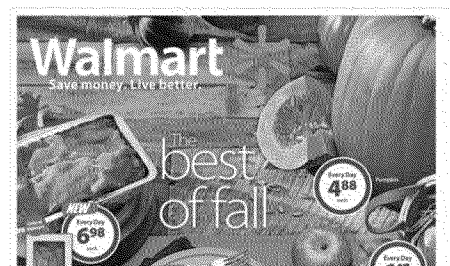
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Gail Delauney

Cowboys round up longhorns April, 21, 2016 near Addicks Reservoir

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As Hurricane Matthew approached Florida, researchers were anxious to see how a new flood forecasting system would work. We reported on the new system after the Tax Day Flood hit Houston. It uses a supercomputer and is called the National Water Model.

"We started seeing some of the impacts of that hurricane landfall in these forecasts from the National Water Model," says David Gochis at the National Center for Atmospheric Research in Colorado.

Gochis helped develop the new system which just went online in August. Gochis says early indications are encouraging as the system began forecasting — days ago — how Matthew would impact waterways in F

The National Water Model is designed to predict flooding with street-by-street accuracy. It does that by gathering real time data on rainfall amounts to predict flooding at over 2 million locations nationwide; in the Houston area alone, at 875 locations.

But Gochis says the model's output is still pretty raw and not ready yet for use by local weather people.

"It's going to happen, it's just going to take time to get to that level of skill and confidence," Gochis says.

Scientists are watching how the model does predicting high water from Hurricane Matthew as they continue to fine-tune what could revolutionize flood forecasting in the future.

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# Algae look at Buffalo River

By Emily Walkenhorst   
This article was published October 10, 2016 at 2:46 a.m.

A manager at the Buffalo National River plans to survey any algae that may remain on the river after reports indicated worse-than-usual algae was present on a several-mile stretch near U.S. 65.

Chuck Bitting, who manages the natural resource program at the river for the National Park Service, said a U.S. Geological Survey worker tested the algae in mid-September after reports came in around Labor Day. The researcher found the algae was mostly harmless, but officials have been unable to go back to the area after a heavy rainfall and other obligations, Bitting said.

Bitting, whose wife was one of several people who spotted algae while canoeing, said last week that he planned to return to the area to ensure that none of the algae is a type commonly called "blue-green" algae that can be harmful to humans and wildlife.

Algae is common in summer months, Bitting said, and he expects it to appear on the Buffalo every year.

"But I don't expect to see algae like this," he said, adding that it appeared worse this year than he's seen in his 30 years with the Park Service on the Buffalo.

Bitting said the algae, which stretched about 30 miles from U.S. 65 to Spring Creek, could be caused by many things. He said levels of algae-causing nitrates and phosphorous in the river have steadily increased since annual testing began in 1985. That could be because of human activity, including leaking septic systems or agriculture in the river's watershed.

Caleb Osborne, associate director of water quality for the Arkansas Department of Environmental Quality, said in a written statement to the *Arkansas Democrat-Gazette* that a number of people had contacted the department recently about algae in the Buffalo River.

"ADEQ has been in close contact with other state and federal agencies about this issue," Osborne wrote. "USGS did an evaluation of the algae observed in the Buffalo River. USGS determined the majority of the algae was oedogonium, which can commonly occur in freshwater streams with low nutrient levels and is generally not a nuisance species."

Bob Morgan, manager of environmental quality at the Beaver Water District in Northwest Arkansas, said worse-than-usual algae appeared on Beaver Lake this September.

The algae isn't harmful and has only caused an "earthy taste" that is difficult to get out of the water, Morgan said. The algae probably peaked the second-to-last week of September and has been going down since, Morgan said.

"It happens with varying intensity every year," he said. "This has been a bad year, actually. The last four to five years have been pretty mild events. This year has been a tough year, water quality-wise."

"It all started with that flood just after Christmas and other unusual weather."


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A spokesman with the Arkansas Department of Health said the department was unaware of any algae affecting drinking water in the state.

Metro on 10/10/2016

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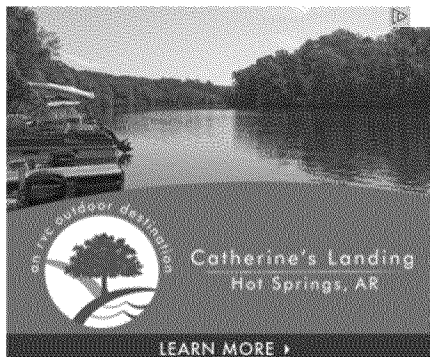


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# Army Corps spends millions to begin West Bank mitigation projects



This map displays the area of land that the Army Corps of Engineers has purchased for a mitigation project. Avondale's NOLA Motorsports Park is located approximately one half of a mile from the eastern most side of the site. It is south of U.S. 90 and east of the St. Charles Parish border. (Image via United States Geological Survey)



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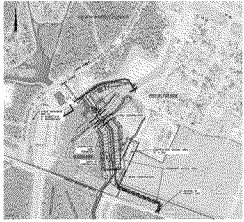
on October 07, 2016 at 1:25 PM, updated October 07, 2016 at 1:30 PM

The federal government will pay a firm more than \$7 million to tear out and replant trees in a forested part of Avondale, a task intended to complement the West Bank's hurricane protection project.

The Army Corps of Engineers awarded the contract to project management firm Hernandez Consulting, LLC, on September 27. The work consists of restoring nearly 960 acres of bottomland habitat, which includes timbers and other trees native to the region. In that area, "920 acres of predominantly invasive and nuisance species would be eradicated" with herbicidal treatments, according to a project report from the Corps.

Churchill Farms and Bayou Verret Lands, two companies owned by Joseph Marcello, sold more than 1,000 acres of the vacant land to the Corps for \$13.5 million in August. Avondale's NOLA Motorsports Park is located approximately one half of a mile from the eastern most side of the site, according to the Corps report.

One major thoroughfare, U.S. 90, is located north of the project. It is east of the St. Charles Parish border and the nearest residential area is located nearly one-half mile from the project site. The Corps said Avondale Garden Road is the nearest major thoroughfare.



## \$515,000 Westwego levee lift planned for October

Construction vehicles and debris could potentially increase traffic, but the Corps expects these impacts to go away once mitigation ends. The U.S. Geological Survey, the government's scientific agency, said bottomland habitat is known for its storage of floodwaters, water quality improvement, and the provision of wildlife habitat.

Jason Monzon, regional director of the Southeast Louisiana Flood Protection Authority West, said the mitigation project is expected to begin in spring. The Corps expects the work to be completed by the end of 2019.

One environmental liability the Corps report acknowledged was an active producing oil well within the project. A petroleum product pipeline crosses the features and may also be considered a potential liability, the report said. Three plugged and abandoned dry hole oil wells are also located in the area. Monzon stressed that the area is a prime location for mitigation.

"In our part of the world, it's kind of hard to find suitable sites to replace bottomland hardwood," Monzon said.

Once the mitigation project is complete, Monzon said the Corps will turn the project over to the West Jefferson Levee District for operation and maintenance. Those tasks include cutting the grass and ensuring invasive plant species do not return. The flood authority was created in 2006, after Hurricane Katrina, to take over the West Jefferson Levee District and the Algiers portion of the Orleans Levee District.

The Corps project report says no endangered animals are expected to be found in the area, although "a great variety" of animals are in its vicinity. Wildlife present during the project "would be temporarily displaced" to nearby habitat due to noise, movement and vibration, but the Corps said "slower moving species may perish." They nonetheless expect wildlife to return once construction ends.

The Corps said the mitigation would also offer better shelter and foraging ground for deer and other species in an effort to preserve the area's biodiversity.

The ongoing mitigation projects come under the auspice of efforts to revamp the levees across the New Orleans area after Hurricane Katrina devastated Louisiana. Congress funded the \$14.45 billion Hurricane and Storm Damage Risk Reduction System for southeast Louisiana to reduce the surge risk associated with a 100-year storm, which is a storm surge event that has a one percent chance of happening in any year.

The work consists of 350 miles of levees and floodwalls, 73 non-Federal pumping stations, three canal closure structures with pumps and four gated outlets. The West Bank project will include more than 50 construction contracts valued at nearly \$3 billion, the Corps said.

With most of the construction complete, Monzon said the Corps is federally required to begin the mitigation phase of their task.



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## CLOSINGS AND DELAYS FOR TUESDAY, OCT. 11

**Bob King 45<sup>TH</sup> ANNIVERSARY SALE GOING ON NOW**

# Floodwaters could breach hog waste lagoons, contaminate rivers

Published: Monday, October 10th 2016, 12:45 pm CDT

Updated: Tuesday, October 11th 2016, 6:49 am CDT

By: Ann McAdams, Investigative Reporter [CONNECT](#)

SOUTHEASTERN NORTH CAROLINA (WECT) - The wind and rain have stopped, but we are still dealing with the effects of Hurricane Matthew. You've probably seen video of the flooding we've already experienced, and it will likely get significantly worse when the rivers crest later this week.

Cape Fear Riverkeeper Kemp Burdette is sounding the alarm for what this could mean for people in Southeastern North Carolina who live near or downriver from livestock farms. The flood waters could breach some, if not many, of the hundreds of hog lagoons and poultry waste piles scattered across our region. Floodwaters could also drown livestock housed on those farms.

"This is just a big massive pit of hog feces and urine," Burdette explained of your typical hog lagoon. "The animals that are confined to those [neighboring] barns can literally drown inside the barns which we saw in Hurricane Floyd... Eventually the barns can be damaged enough that the animals literally float out. And there were plenty of stories during hurricane Floyd of full grown dead hogs floating down rivers."

The First Alert Weather Team predict that the post-Matthew flooding could be similar to what we experienced during the devastating floods of Hurricane Floyd in 1999.

Governor Pat McCrory weighed in on this issue at a press conference Monday morning, warning that some of the most significant dangers of a hurricane come after the storm itself passes.

"This water, that's going to be flooding or has already flooded is going to be extremely dangerous not just from a water standpoint of the current, which can kill you, but the environmental aspect is very dangerous," McCrory warned. "This water is going over pavement and roads where there's environmental issues, you're going to have environmental issues from chemicals from the farm communities, and sadly you're going to have animals involved in this process."

State agricultural officials are still assessing the flood damage to local livestock farms. Brian Long of the NC Department of Agriculture says they only reports they have so far are of livestock deaths are at poultry farms.

"Access to farms is a concern because of flooding and impassable roads. It will hinder the delivery of feed and the movement of animals. We know there will be losses of crops such as cotton, peanuts, soybeans and sweet potatoes," Long shared by email Monday.

Rick Dove, with the North Carolina Riverkeepers and Waterkeeper Alliance, conducted aerial surveillance Monday and reported that floodwaters at some local hog farms are very close to breaching the hog waste lagoons and the water is still rising.

If the lagoons are breached, Burdette said water contamination could put people who live nearby and depend on well water at risk. New Hanover and Brunswick County residents who depend on the Northeast Cape Fear River for their water supply should have more protection if their water is treated by a utility authority's water treatment plant. But any contact with the surface water could still be dangerous for folks battling the floodwaters.

"If they have open cuts, which you frequently get when you're out handling debris during a flood, it can enter your body. If it splashes your face it can enter your body. It's a real threat and people need to be aware of that," Burdette said of exposure to contaminants like E.coli and listeria.

After Hurricane Floyd, Burdette says state lawmakers worked to stop further expansion of hog lagoons in Eastern North Carolina. But based on farms that already existed, he says this region is uniquely susceptible to water contamination.

"They put a moratorium on new hog lagoons. So we stopped where we are, but at that point we already had more than anywhere else on planet earth in the Cape Fear River Basin," Burdette explained.

The NC Pork Council reached out to share the following statement:

“Hog farmers and pork production companies – like thousands of people across Eastern North Carolina – are working around the clock to protect people, animals, property and the environment against flooding. This is a severe and life-threatening situation, and the priority must be on saving people who are at risk.”

“With regard to Hurricane Floyd in 1999, many of the farms that flooded were in the 100-year flood plain and have since been closed. We caution the media and public against jumping to conclusions before the full facts are known.”

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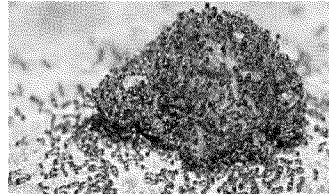
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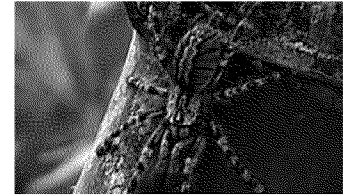
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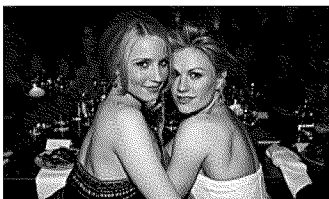
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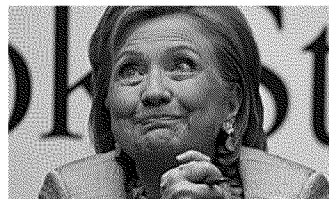
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# As Tensions Rise, Tribes Protesting Pipeline Dig In: ‘We’re Staying’

By JACK HEALY   OCT. 10, 2016

CANNON BALL, N.D. — Ranchers are arming themselves before they climb onto tractors or see to their livestock. Surveillance helicopters buzz low through the prairie skies. Native Americans fighting to prevent an oil pipeline near the Standing Rock Sioux Reservation are handing out thick blankets and coats and are building maple-pole shelters that can withstand North Dakota’s bitter winter.

As the first deep freeze looms, many here are bracing for a long fight as the company behind the Dakota Access pipeline races to finish the \$3.7 billion project by January, and thousands of protesters tucked into tents, tepees and trailers in prairie camps vow to stop it.

“This is where we are, and where we’re staying,” Retha Henderson said, surveying a bustling camp on the edge of the Cannonball River. “We’re not giving up.”

Ms. Henderson said she had been drawn to the site by memories of her grandfather, an Oglala Lakota, and by dreams. She left her apartment and her catering job in Myrtle Beach, S.C.; gave away her cat; and hitchhiked to the Sacred Stone Camp.

As others built winter shelters over the weekend, she worked in the camp's supply area, sifting through thousands of donated sleeping bags, parkas and boots.

A man stopped by and asked if there was a spare toothbrush. There were 4,000.

"This is my home now," Ms. Henderson said.

It has been a month since the United States government made an unprecedented intervention in this high-plains battle over the environment, energy development and tribal rights by temporarily blocking the 1,170-mile Dakota Access pipeline from crossing under the Missouri River.

Tribal and environmental activists say that the pipeline would threaten water supplies for the Standing Rock Sioux and millions of others downstream, and that its route would destroy tribal burial grounds and sacred cultural lands. The pipeline company, Energy Transfer Partners, says it has followed federal and state rules and claims that the pipeline would be a safer and cleaner way to move crude oil from fields to refineries.

On Sunday, a federal appeals court removed a major obstacle for the company by rejecting the Standing Rock Sioux's request for an injunction against the pipeline. The tribe has sued in federal court, arguing that it was not properly consulted about how the pipeline's route could affect ancestral tribal lands.

The appeals court said crews could resume work on private lands, bringing the pipeline closer to the Army Corps of Engineers land straddling the pipeline's crucial river crossing.

The corps is responsible for deciding whether to grant the pipeline an easement to cross under the river. It has been reviewing its earlier pipeline-related decisions, made under federal environmental laws, and said on Monday that it hoped to reach a conclusion soon.

In a joint statement from the corps and the Interior and Justice Departments, officials again asked the pipeline company to pause construction within 20 miles of Lake Oahe, the dammed section of the Missouri. The agencies and the tribes will

meet this week in Phoenix to discuss the need for nationwide reform on how Native Americans are consulted on major infrastructure projects like the pipeline.

“We continue to respect the right to peaceful protest and expect people to obey the law,” the agencies said in the statement.

David Archambault II, the chairman of the Standing Rock Sioux, said that he was disappointed by the legal setback but that the tribe would make a “full-court press” to urge President Obama and federal officials not to let the pipeline cross the river.

“We’re hoping he does the right thing by our people at Standing Rock,” Mr. Archambault said.

Even with the government-ordered halt, the pipeline’s progress never really stopped.

Crews kept digging ditches and draping sections of the light-green 30-inch pipe into ranchers’ fields not covered by the federal order. And protesters kept dogging them, driving to construction sites as far as 80 miles from their camps to try to halt work.

On Monday, a holiday that many celebrate as Indigenous Peoples Day instead of Columbus Day, scores of protesters rallied and pitched a tepee beside a section of pipe near the tiny farming town of St. Anthony. Twenty-seven people were arrested. In all, about 130 have been arrested since the large-scale protests began this summer.

Ranchers are becoming edgy. Sheriff’s deputies worried about being identified at protests have taken off their name tags, and some say they have been followed home. Local officials here are increasingly exasperated because Washington has declined or ignored their requests, they say, for emergency funds and federal law enforcement officers.

“The camp is on federal land, and the federal government has not responded to official requests for resources,” said Cody Shulz, the chairman of the Morton County Commission.



Local officials also criticized Washington's move to intervene and pause construction, saying it had prolonged demonstrations that have drained money and left law enforcement stretched thin.

"It's made this whole situation more confusing in the long run," said Sheriff Kyle Kirchmeier of Morton County, who has led the law enforcement response to weeks of anti-pipeline demonstrations. "It has dragged it on longer and put an uncertainty on the whole thing."

Jon Moll, 38, a sheriff's deputy in Morton County, has been working six- and seven-day weeks since the summer. He has carefully pulled down a protester who locked himself to the bucket of an excavator. Deputy Moll described the tensions of a demonstration last month where, sheriff's officials say, a protester on horseback charged at deputies.

"Some have no problem with us," Deputy Moll said as he drove past the camps on Saturday, many people offering a quick wave at his sport utility vehicle. "You have people that despise your existence."

Officers like Deputy Moll say they have been trying to keep tense face-offs in the rolling plains from spiraling into violence. Sheriff Kirchmeier says demonstrators have charged onto private property and attacked pipeline contractors. Demonstrators say security guards for the pipeline unleashed guard dogs on them during a confrontation.

Winter may be coming, but so are new supporters. A group of Comanche teenagers and their parents drove to a camp from Oklahoma over the weekend to march up a rural highway to land that the pipeline would cross. A group of 400 indigenous grandmothers is making plans to come. In South Dakota, people are raising money for 1,000 Oglala Lakota Sioux children to travel to the camps.

"Something bigger than us is happening here," said LaDonna Brave Bull Allard, a tribal historian for the Standing Rock Sioux who helped found the first camp, on her property, in April.

On Sunday morning, she had just come home from buying breakfast supplies in Bismarck, N.D., for the camp. Her trips these days begin with her husband telling her to be safe.

“We watch every day,” she said. “We have a right to live here.”

A version of this article appears in print on October 11, 2016, on page A10 of the New York edition with the headline: Tension Rising Over Pipeline, Tribes Dig In: ‘We’re Staying’.

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AL • ANY, N.Y. — When Deneen Carter◻ moved to the  
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“Not a da◻ goe◻ •◻ when we go out of the apartment and don’t ◻mell◻tuff,”  
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The mo◻t◻ African-American tenant◻ of ◻zra Prentice complain of recurring  
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The South end is less than a five-minute drive from the New York State Department of Environmental Conservation (DEC) and the chateau-style State Capitol, but people here say the proximity hasn't helped them. "Week go, and month go, and it pushed under the rug again," said Carter, who attended numerous meetings with regulators and politicians over the past three years.



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With the passage of the Clean Air Act in 1970, Congress pledged to protect public health with the guarantee of safe air. The U.S. Environmental Protection Agency estimates that reduced emissions associated with the law prevented 160,000 deaths in 2010 alone.

The act relies on cooperation between federal and state regulators, but experts, including some at the EPA, say its benefits aren't being fully realized because enforcement remains wildly inconsistent.

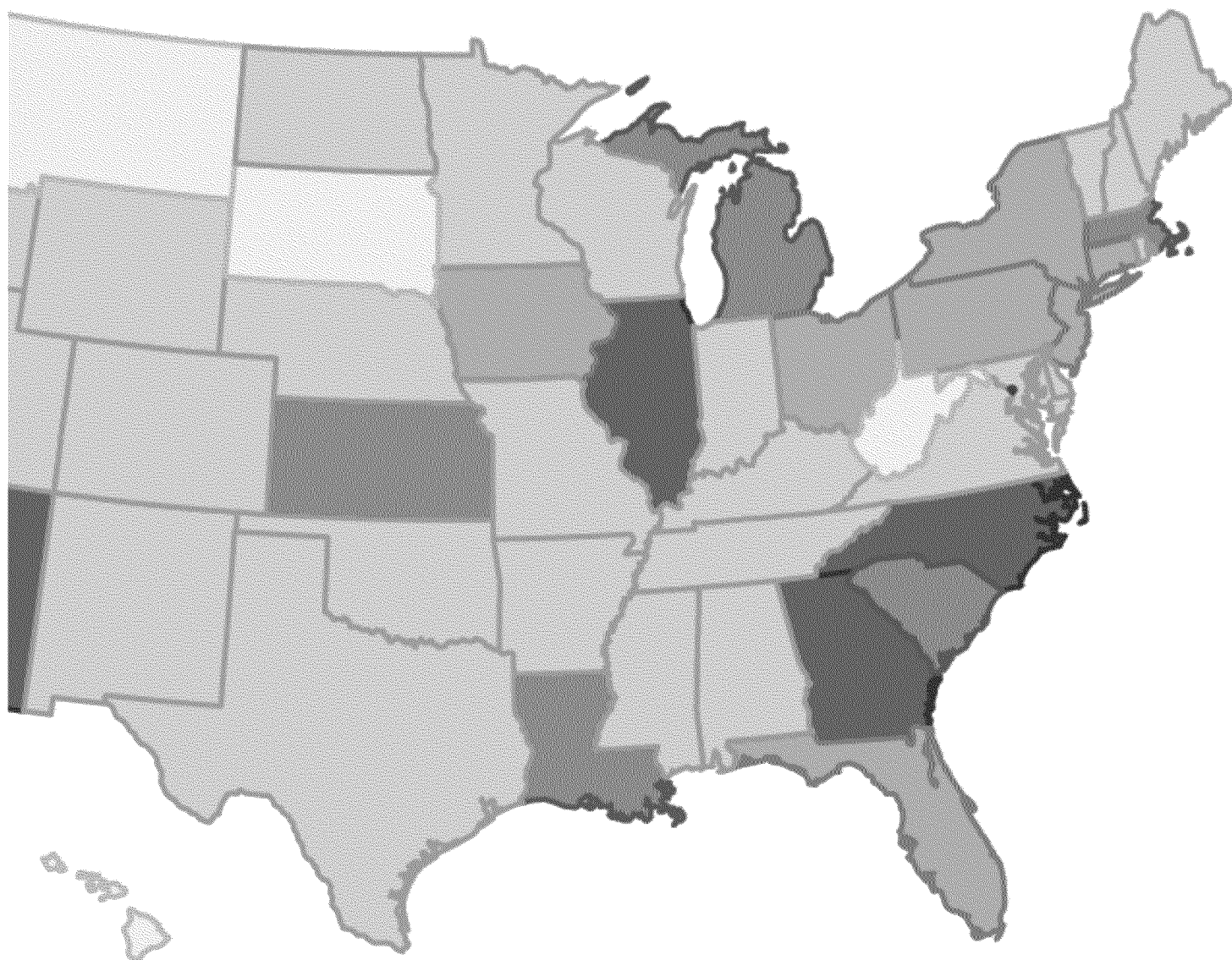
The EPA has had trouble coordinating with recalcitrant states and territories, which are responsible for day-to-day policing despite significant federal and state cutbacks. Incomplete and inaccurate data supplied by states to the EPA, along with a patchy air-monitoring system, complicate attempts to identify problem areas.

The scarcity of data prompted the Center for Public Integrity to file public-record requests with all 50 states, as well as the EPA and the U.S. Census Bureau, to track to assess Clean Air Act enforcement nationwide. Among the Center's findings:

- Forty state environmental agencies have reduced regulator head counts in recent years, even as federal and state responsibilities have proliferated and the country has largely recovered from the recession.
- North Carolina — which the EPA criticized earlier this year for coddling polluters — has suffered some of the deepest cuts, its agency's 2014 workforce cut by a third from 2008 levels. In Illinois and Arizona, staffing has fallen by more than a third since 2007. Over the same period, New York's workforce has been cut by nearly a quarter and Michigan's by a fifth.
- Florida has filed only one Clean Air Act case involving asbestos — a deadly mineral long used in building materials — in the past three years. Georgia

has handed over a file to enforcement to the EPA, and Connecticut is considering doing so.

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**increase**

## Staffing decrease

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Residents began gathering their own data — donning face masks to count diesel truck traffic and knocking on doors of tenants to survey for chronic conditions like emphysema and asthma. Their efforts caught the attention of Judith Enck, the EPA top regional official, who met with members of the community in August. The month before, her office had filed a Clean Air Act violation notice against Global dating to the 2012 expansion. Activists had long argued that the terminal was releasing excessive amounts of volatile organic compounds, such as cancer-causing benzene.

The state has yet to allege a comparable violation but made news of its own. On the same day Enck visited in August, the DEC announced plans to increase air monitoring in the South End, marking a departure from two years earlier, when it rebuffed residents' concerns. The day before, DEC Commissioner Daniel Seggo urged the EPA to make "a stronger federal response to the concerns of the residents of South Albany." A few days later, Seggo denounced EPA oversight of long-standing efforts to remove polychlorinated biphenyls — man-made chemicals linked to neurological and other health problems — released into the Hudson River by General Electric Co.

Some chalked up the DEC's string of announcements as petty attempts to divert attention from unwelcome federal intervention. "Instead of ducking down and saying 'Oops, looks like we made a mistake,' they turn it into a retribution war," said Chris Amato, an attorney with the public-interest law firm Earthjustice, who is litigating the case against Global. "The only time you see [the DEC] doing something is when a lawsuit is filed or they get embarrassed because EPA came in and took the lead."

State officials maintain that the DEC "has been actively engaged" with the community from the start. In a statement to the Center in early September, the agency wrote that it understood the community's concerns, but said testing showed the air was improving and met federal standards.

However, a week later, the DEC notified Global it would face stricter oversight in light of "higher-than-expected benzene levels." DEC air-sampling results released in late September showed the South End's average benzene level for the past year were comparable to those of the Buffalo-area neighborhood near Tonawanda Coke, which is shelling out a combined \$36 million in criminal and civil lawsuits stemming from years of Clean Air Act violations for uncontrolled benzene emissions.

Global declined an interview request, but wrote in a statement that it plans "to prove to the EPA, the DEC and our neighbors that our Albany facility remains in compliance with federal and state emission standards."



Cleaner air can't come soon enough for Carter-El, who was recently diagnosed with asthma and depend on her dad juggling medical appointments. "I want to be able to grow old and see them," she said of her four children, who appear to be in good health. "I don't want them to come over here and be planning my funeral." She turned 50 this year.

'Stripped from the bone'

After decades as an attorney, a man from Manhattan's Upper East Side, Pete Grann was read to trade in politics for what he called his "dream job." In 2007, he was sworn in as DEC commissioner, putting him in charge of the same agency that had hired him as a young lawyer in the 1970s.

But his triumphant return was cut short by the financial crash. In his first three years on the job, the DEC lost more than 300 staffers — a nearly 9 percent cut. In 2010, another 135 positions were eliminated. "I pushed back and I pushed back as hard as I could," Grann said of the reduction, which he felt singled out the department.

He sent memo to then-Gov. David Paterson warning that further cuts to the DEC's air division could have lasting effects since enforcement relies on a "cop-on-the-road" presence. "All the meat has been stripped from the bone, and some of the bone have disappeared," Grann wrote.

Soon after the memo were leaked to the press, Paterson's secretary gave Grann two options: Quit with a letter of resignation or be fired immediately. He chose the latter; news of his dismissal caused an uproar among environmentalists who saw him as an all-out truck down the pro-business politics.

Grann now works as a top administrator for the New York State Comptroller, whose office criticized the DEC's flat-lining budget and inadequate staffing despite expanding responsibilities in a 2014 report. The report warned that unchecked air emissions would put state residents at greater risk of death and illness such as cancer and asthma.

The DEC has fewer than 2,900 full-time employees, down from 3,775 in 2007. Over the past decade, air-enforcement positions have also been cut by nearly a quarter. Last year, the agency referred just 85 air-related cases for civil enforcement, compared to 467 in 2007.



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"It's pretty clear the [sic] we're doing [sic] with [sic]," said Peter Iwanowicz, a former D.C. acting commissioner who now heads Air and Land Environmental Advocates of New York.

Iwanowicz said overburdened regulators often lose sight of communities like the South End. He said he wasn't aware of the severity of the area's air-quality problem until oil-train traffic began spiking in 2013 — three years after he left the D.C.

Carter said the neighborhood has long been overlooked. It wasn't until after the death of a second-grader in 2013 that officials outfitted South Pearl Street, the main road leading to Interstate 787, with proper traffic signals and signs, even though at least 10 children had been struck in previous accidents there. Earlier this year, South End residents celebrated the opening of a Family Dollar, the only convenience store near the neighborhood's small cornerodega.

New York Gov. Andrew Cuomo, a Democrat, has embraced climate-change initiatives but also supports expanding the Port of Albany — training relations with activists who question his commitment to the environment. "The governor wants to view New York as open for business, even if it's dirty business," Iwanowicz said.

Known for his micro-management, Cuomo has clashed repeatedly with the EPA. The agency quashed his attempt in 2014 to use \$511 million in federal water funds for bridge reconstruction. In August, Cuomo threatened to sue the EPA if plans to allow the dumping of dredged sediment from harbors and rivers into the Long Island Sound are approved.

Over the past year, Cuomo's administration also has taken heat for allegedly ignoring EPA warnings about drinking water tainted with perfluorooctanoic acid (PFOA), a suspected carcinogen, in the upstate community of Hookick Falls. In early September, EPA Administrator Gina McCarthy urged the state to "move beyond accusatory letter and, rather, work cooperatively" with EPA regional officials.

Cuomo's office declined to respond to questions from the Center, referring it to the D.C. The agency reiterated its commitment to the South End and wrote that "like any other industrial area that is in the vicinity of residences, utilization of the Port [of Albany] can be done in a manner that is consistent with the Governor's climate and environmental priorities."

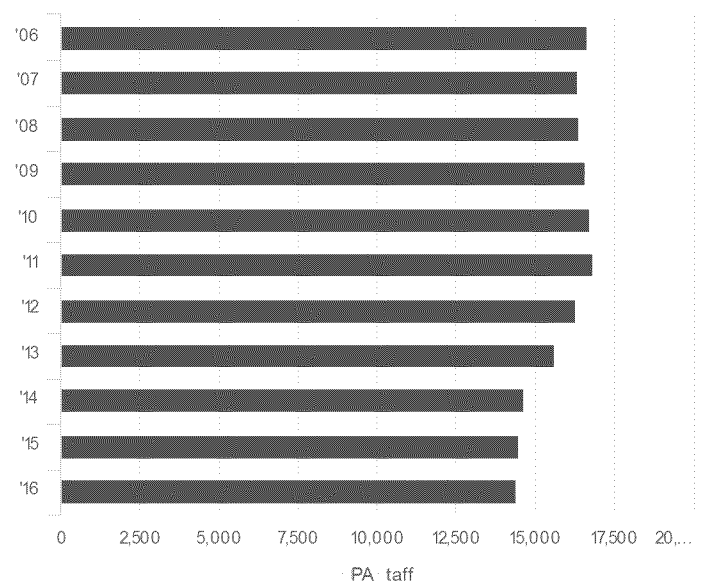
Deep cuts in Pennsylvania, Florida

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Heads of state agencies are typically nominated by the governor, while budgets are subject to

gubernatorial approval — throwing regulators into the political fray. John Quigley was forced out as chief of Pennsylvania Department of Environmental Protection (DEP) in March after a profanity-filled email he sent to activists raised questions about his objectivity in a big oil and gas state. Though handpicked for the position by Gov. Tom Wolf, a Democrat, Quigley lasted a year and a half on the job.

Like Granni, Quigley was vocal about deep cuts back at his agency. Last year, the EPA flagged the DEP for inadequate air-enforcement staffing.



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Florida Department of Environmental Protection has faced a slide nearly identical to New York's, even as the state's economy has grown. The agency employed just over 2,900 people, compared to 3,600 in 2007. Republican Governor Rick Scott — who reportedly prohibited state workers from using the term “climate change” or “global warming” — has touted reduced processing time for permits as a sign of greater efficiency.

But Florida's chapter of Public Employees for Environmental Responsibility, which advocates for stronger enforcement, blamed Scott's union-friendly politics for a “severely crippled” department that allows polluters to skirt citation. The group's annual report found that 18 air enforcement cases were opened in 2015, compared to an annual average of 93 in previous decades. The state has filed only one appeal to cases since 2013 — compared to a past annual average of 13.

William Ecker, director of the National Association of Clean Air Agencies, testified before Congress in March that states have borne the brunt of an annual \$550 million federal funding shortfall. The Clean Air Act calls for federal grants to cover up to 60 percent of state air enforcement programs. In fact, states today are shouldering 75 percent of costs. The gap has caused agencies to reduce or eliminate important air pollution programs, postpone necessary air monitoring expenditure and even reduce their workforce,” Ecker said.

The Center surveyed all 50 states and the District of Columbia, seeking a decade of agency staffing data. Forty-one provided those numbers; for the remaining 10, the Center used six years of data obtained from the Census Bureau. From 2009 to 2014, agencies that shed employees reported a typical decline of nearly 7 percent, though some took far bigger hits.

Shari Wilton, deputy assistant administrator in the EPA enforcement division, said in an interview that the impact of state budget shortfalls are magnified by increasing number of facilities and regulations. “The system gets stretched thinner and thinner and thinner,” she said.

The EPA itself has been pared down. Its full-time workforce is under 14,400 employees, down from 16,600 a decade ago. Staffing across all 10 regional EPA offices — which work directly with states — has also declined.

The cutbacks are especially severe since the agency has been inadequately funded from the start, said Mintz, the law professor. In a paper this year, he pointed out that EPA funding in 2014, when adjusted for inflation, was the lowest since 1977.

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## A level playing field

It’s hard to know, by an objective measure, which states are doing a good job of enforcing the Clean Air Act. Of the dozen of people interviewed for this report, no two could agree on which state or EPA region were excelling or failing.

Annual enforcement metrics provided by states — such as inspections, violations, penalties — are riddled with “widespread and persistent data inaccuracies and incompleteness... which make it hard to identify when serious problems exist or to track state action,” the EPA wrote in a 2013 memo.

The EPA’s Office of Inspector General has repeatedly raised concerns over uneven enforcement. In a 2011 audit, the office found that even top-performing state agencies failed to meet national goals for basic duties like inspections and wrote that the EPA “cannot assure that Americans in all states are equally protected from the health effects of pollution.”

Auditor Kathleen Butler said in an interview that the differences among the states were stark. “It seemed some states were very clear on what was expected of them in terms of performance from the [EPA] region,” she said. “Other states knew there was an ability to negotiate.”

Wilton said the EPA has a better understanding now of how states are faring than it did at the time of the audit. In a statement to the Center, the agency wrote that its “relationship with the states is strong,” and called building state

partnership a priority under McCarthy. But the EPA has resisted calling for the inspector general for enforcement reform.

Eddie Terrill, air director at Oklahoma Department of Environmental Quality, said he and other members of the National Association of Clean Air Agencies are eager for stronger EPA guidance but don't always get it. As a result, he said, "every state has a different perspective on how things ought to be done."

Mintz said tension between states and the EPA goes back to the agency's creation in 1970. Before that, states were responsible for their own environmental programs. Today's imperfect system reflects a compromise between those who wanted nationwide pollution standards and those who wanted states to retain individual control, he said.

The EPA provided few internal records on state performance requested by the Center. Most forthcoming was the Southeast regional office in Atlanta, which has ramped up oversight of North Carolina Department of Environmental Quality (DEQ) after a year of significant fewer state-issued violations, paltry fines and failure to go after repeat offenders.

From 2011 to 2014, air-related penalties in North Carolina dropped by 93 percent while overall enforcement actions decreased by 51 percent. "This raises concerns about effective deterrence and providing a 'level playing field,'" the EPA wrote to DEQ Secretary Donald van der Vaart in a May letter obtained by the Center under the Freedom of Information Act. It was the latest attempt to get the DEQ to correct problems federal officials attribute to 2011 policies that made it easier for polluters to resolve violations informally and resulted in fewer penalties.

The Domtar pulp and paper mill in Plymouth, North Carolina, was among more than a dozen facilities flagged by the EPA for "chronic noncompliance." Company officials claimed the addition of a new biofuel plant in early 2013 wouldn't significantly increase air pollution, but waited until mid-2014 to notify regulators that emissions of hydrogen sulfide — a gas that can cause instant death in high concentrations and loss of smell and memory problems at lower levels — were heavier than projected.

The state fined Domtar \$100,000 in June 2015 but allowed the company to continue operating its new plant without the proper permit. A Domtar spokesman said the company is "working diligently with the state" on a new permit and installing a monitoring system.

The DEQ's Stephanie Hawco declined to respond to questions from the Center and said the agency will reply to the EPA's May letter later this fall. Hawco also declined to answer questions about Domtar, saying only that "DEQ has

protected public health ... ensuring [Domtar is] on a path toward getting into compliance.”

The DOE’s 2014 environmental staffing levels were down ... a third of what they were in 2008, according to state officials who provided the Center with detailed figures. Over the same period, the air-enforcement staff was reduced ... nearly a quarter.

North Carolina is among the states joining the EPA to try to block the Clean Power Plan. Secretary van der Vaart has been vocal about his opposition to the plan, calling it a federal “takeover.” Three of the state’s coal-fired power plants were among the nation’s top 100 emitters of greenhouse gases in 2014, a Center analysis found.

It’s not uncommon for enforcement inadequacies to go unresolved long after they’ve been identified. Since 2009, the EPA has carried out enforcement of federal air-quality regulations on Georgia’s behalf because of state budget reductions. In May, the EPA wrote in a separate internal review that Georgia officials had also blocked the agency from reviewing state air penalty records — an allegation a spokesperson for Georgia’s Department of Natural Resources denied.

A 2013 EPA review of the Ohio Environmental Protection Agency found state regulators improperly modified permits after pollution incidents instead of issuing violations. They also failed to report critical violations to the EPA as required — so “it appears to EPA and the public that the things are not being done.” No updates were provided in subsequent annual reports.

The EPA’s New England office flagged “the loss of key enforcement staff in recent years” among the six states in its region as a major concern in March. The agency has shouldered enforcement duties on Rhode Island’s behalf, records show. Similar to its counterpart in Georgia, Connecticut’s Department of Energy and Environmental Protection notified the EPA it may no longer carry out air-quality enforcement.

## Empty threat

When enforcement falls short of the EPA’s expectations, the agency often resorts to cajoling states into improving, former EPA officials said. Phone calls or sternly worded letters are preferred over formal intervention, which requires the EPA to take on added responsibilities.

Mounting pressure from the public and the EPA persuaded New York regulators to rethink Global’s 2013 plan to install even

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natural-gas-fired oiler at its Alton Terminal. The DEC originally concluded that the proposal, which would allow Global to handle thicker fuel like tar sand, wouldn't have "significant adverse impact on the environment," only to backtrack two years later.

A big factor in the reversal was a 12-page letter the EPA sent to the state in April 2014, pointing out several mistakes in the DEC. A week after the EPA sent a follow-up letter in May 2015, the DEC conceded that it hadn't considered whether Global's proposal would increase unintended releases known as fugitive emissions, worsen Alton's persistent ozone problem or raise levels of hydrogen sulfide.

The state also failed to catch an error. While Global estimated its plan would increase emissions of volatile organic compounds by 39.5 tons per year — just shy of a 40-ton threshold that triggers additional review and pollution control — the EPA found the figure was closer to 44 tons.

"For whatever reason, DEC seems intent on giving this company the benefit of every doubt and overlook what we believe are clear red flags about how they're calculating their emissions," Earthjustice's Amato said.

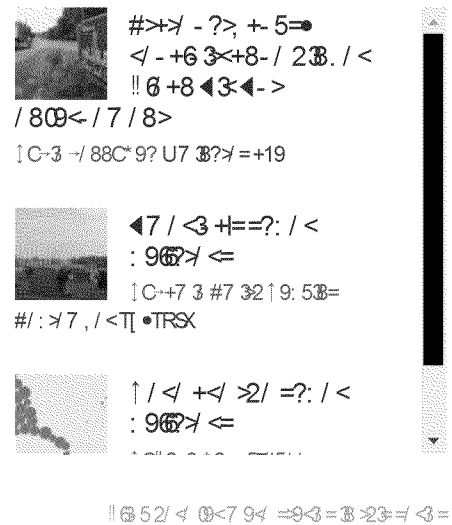
Regional EPA officials played down their involvement in the Global case, denying that the violation notice they filed against the company in July reflected unhappiness with the DEC's performance. The officials declined to be interviewed, writing in an email to the Center that they were in discussion with their state counterparts and that such discussions were "not unusual."

Experts say the EPA must tread carefully when it comes to intervening in state matters or risk worsening tensions. Outside of persuasion, the EPA has few methods to spur improvement.

The harshest is withdrawal, or taking back a program, which strips enforcement authority from the state and puts it in federal hands. Because of the drain it puts on the EPA, some call the option an empty threat — likely to cause more problems than it would solve.

"You're actually undermining and weakening the system rather than strengthening it," the EPA's Wilson said. "The way the system is set up and the way it functions most effectively is to have the strongest state program possible."

The EPA did not respond to a Center request to provide records or figures on how many state programs the agency has withdrawn. Similarly, it did not provide statistics on how many withdrawal requests it had received from



outside environmental group like the Sierra Club, or how many times it had withheld federal grant money from state agencies — one of the more forceful oversight options.

The EPA inspector general recommended that the agency withdraw the Virgin Islands' authority for several environmental programs in 2015, citing a plethora of problems, but the EPA refused to do so. Officials had taken the unusual step of temporarily blocking the U.S. territory from accessing \$37 million in federal funds, citing concerns over poor financial oversight.

An audit the same year said inspectors in the Virgin Islands lacked certification to conduct air-quality tests and failed to report air-monitoring data, as required. In March, the EPA wrote that the territory was still “not taking adequate enforcement action when non-compliance is found” or “imposing penalties as appropriate.”

Butler, of the inspector general's office, said the EPA's inactivity or unwillingness to withdraw enforcement authority has hurt its leverage with states and territories. “EPA has had a big tool removed from its toolbox,” she said. “It's become this back-and-forth game.”

## A new paradigm

When the EPA urged New York regulators in 2014 to reconsider Global expansion, it also encouraged the DEC to start advanced air monitoring at the Albany terminal — installing sensors, for example, that detect volatile organic compounds like benzene.

The suggestion was part of the EPA's nascent Next Generation Compliance strategy, aimed at boosting enforcement with “closer to real-time” monitoring. The enhanced tracking will enable facilities to “identify and fix pollution problems before they become violations,” the EPA said.

The EPA has visited 20 states to promote “Next Gen” and has given 11 money for infrared cameras that detect otherwise invisible pollution. Efforts to beef up monitoring are crucial, said the American Lung Association, because less than a third of U.S. counties have ozone or particle-pollution monitors, leaving many communities in the dark about local air quality.

Next Gen “makes data more transparent and puts it in the hands of the public — we're all for that,” said Eric Schaeffer, a former EPA enforcement director who now heads the Environmental Integrity Project, a research and advocacy group. But he said transparency means little if the public can't easily distinguish significant pollution events from run-of-the-mill ones.



In 2014, the EPA narrowed its definition of “high priority” air violation, which trigger greater oversight. States can petition to remove the designation entirely if the EPA agrees a violation can’t be sufficiently proven or is no longer worth the extra effort.

Under the new policy, Schaeffer said, a major release of a carcinogen isn’t a high-priority violation unless it lasts at least a week or longer. “You got a definition that basically muffle a lot of violations.”

Since the revision, 51 violations nationwide have been dropped from the high-priority list. The EPA determined that in 70 percent of the cases, extra oversight was “not in the public interest,” recorded how. For the rest, states were “unlikely to prevail” if legally challenged.

The EPA refused to provide information about the violations — names of companies, even names of states — to the Center, citing unspecified privacy concerns. States still must resolve all violations regardless of priority, the EPA told the Center, adding that it is working to make it easier for the public to see pollutant discharge, environmental conditions, and noncompliance.

For people in the South end, things are still too opaque. Aside from glimpses of Global hulking blue and white tanks, few seem to know much about the crude oil terminal. Instead, the focus is on the near-constant parade of creaking railcars and rumbling trucks that muffle the sounds of children playing racket ball on a concrete court.

... White’s 7-year-old son was among the neighborhood kids out on the playground on a hot July afternoon, riding a scooter as railcars passed by. The two live so close to the railroad that White, 60, sees train cars parked feet away when he draws back his kitchen curtains to check on his vegetable garden. His son often wakes up at night, startled by the wall-rattling tremor.

They’ve lived at Ezra Prentice for about a decade and would relocate if they could afford to move. “I can hardly breathe,” White said. “A lot of people around here, you can tell they look sick. Something’s wrong with the air. I don’t know what it is.”

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# Formosa workers released from hospital after chlorine leak



By [Sara Sneath](#)

Oct. 10, 2016 at 11:21 p.m.

Updated Oct. 11, 2016 at 6 a.m.



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Formosa Plastic Corp. Texas Facility in Point Comfort.

Five workers and one Formosa Plastics employee hospitalized after a chlorine gas leak were released from care as of Saturday.

About 10:30 a.m. , Oct. 5 at the Point Comfort plant, a contract employee was painting a piece of equipment and a tube detached, resulting in chlorine going into the wastewater tank, according to an incident report filed with the state environmental agency.

However, the exact cause of the event is still under investigation.

Fifteen workers in the area of the leak exhibited symptoms of chlorine gas inhalation, according to a news release from the company. Formosa medical staff evaluated the 15 workers. Nine were transported off-site for further evaluation and treatment.

Of the nine, five contractors and one employee were hospitalized.

Chlorine exposure can cause blurred vision, skin injuries similar to frostbite, coughing and fluid in the lungs, according to the Centers for Disease Control and Prevention.

Police & Courts

While the workers have all been released from the hospital, the company would not disclose whether they were able to return to work.

**Business**

The company originally reported to the agency that 10 pounds of chlorine was released. The estimate was "precautionary," the company's spokesman, Bill Harvey, wrote in an email Monday.

**Region & State**

The company later reported to the Texas Commission on Environmental Quality that the 10-minute emission event released less than 10 pounds of chlorine. The state requires companies to report emissions of chlorine when 10 pounds or more are released.

The determination that less than 10 pounds was released downgraded the release to a recordable, not reportable, event, Texas Commission on Environmental Quality spokeswoman Andrea Morrow wrote in an email Monday.

A spokesman for the Occupational Safety and Health Administration did not return phone calls or emails Monday. The agency's website indicated an investigation was open as of Oct. 6.

**Schools**

**Scores**

# Timeline of past years of OSHA inspections

**Stats**



2016

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An inspection was opened on 10/6/2016. The case is still open.

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A planned inspection on 03/10/2016 did not result in any violations. The plant was not given advance notice of the inspection.

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2015

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An inspection opened 03/26/2015 did not result in any violations. The plant was not given advance notice of the inspection.

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OSHA fined Formosa two \$6,000 fines on 05/13/2015 for violations found during an inspection opened on 01/16/2015. Both violations are listed as "serious."

[Customer Care](#)

2014

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An inspection opened on 10/8/2014 initially resulted in four violations and fines totaling \$22,000. One of the violations was later dropped and one downgraded from "serious" to "other." The fines were decreased to \$5,000.

[NEWS](#)

A second investigation opened on 10/08/2014 initially resulted in three "serious" violations and fines totaling \$28,000. Two of the violations were later dismissed." The penalty was lowered to \$7,000.

[Local News](#)

Initially, a planned inspection opened on 07/17/2014 resulted in three "serious" violations and fines totaling \$42,000. An informal settlement resulted in one "serious" violation and one "other" violation. The fines were dropped to \$14,000.

[Obituaries](#)

An inspection was opened on 4/22/2014 after an accident. The inspection resulted in three "serious" violations and fines totaling \$21,000.

[Police & Courts](#)

Business

2013

Region & State

An inspection opened on 09/13/2013, prompted by an accident, found one "serious" violation. The initial penalty was \$4,125 but later increased to \$7,000.

Counties

An inspection on 05/02/2013 prompted by an accident, found one "serious" violation. The company was assessed a \$7,000 penalty.

Brand Sense

2012

SPORTS

An inspection on 10/25/2011 prompted by a complaint, found no violations.

Schools

A planned inspection on 01/11/2012 found no violations. The plant was not given advance notice of the inspection.

Scores

2011

An inspection opened on 01/11/2012 found one "other" violation. The plant was assessed \$825.

Stats



An inspection opened on 09/11/2011 found no violations. The plant was not given advance notice of the inspection.

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EPA:

## McCarthy defies Inhofe with appointee to scientific board

Sean Reilly, E&E reporter

Published: Monday, October 10, 2016

U.S. EPA Administrator Gina McCarthy has filled a vacancy on the Clean Air Scientific Advisory Committee with a past member from Illinois, rebuffing objections to the appointment from Sen. Jim Inhofe (R-Okla.) and calls for broader geographic representation on the influential panel.

McCarthy named Donna Kenski last week to the seven-member committee, with the news quietly posted on an agency website Friday. Kenski, head of data analysis at the Chicago-based Lake Michigan Air Directors Consortium, had previously served on the panel from 2008 to 2010.

She was among seven nominees for the three-year appointment, which is set aside for a representative of state air pollution control agencies.



Donna Kenski. Photo courtesy of Donna Kenski.

In a statement, EPA spokeswoman Monica Lee said that Kenski's appointment fulfilled the statutory requirement, but otherwise shed no light on the rationale behind it.

The committee, usually known by its acronym as "CASAC," is charged with providing independent technical and scientific expertise to EPA's periodic reviews of the ambient air standards for ozone, nitrogen oxides and four other "criteria" pollutants named in the Clean Air Act. It's currently in the early stages of a reconsideration of the particulate matter thresholds that is already attracting close scrutiny from industry and environmental groups.

In a July letter to McCarthy, Inhofe, chairman of the Senate Environment and Public Works Committee, had questioned whether Kenski could impartially review and make recommendations for some of the air quality standards that she dealt with in her previous term on the panel (*E&ENews PM*, July 21).

Kenski had rebuked Inhofe's concerns as "ill-founded" (*Greenwire*, July 22).

In a Friday email, Kenski, whose resume includes a doctorate in public health, declined to comment further on what she called the "Inhofe kerfuffle."

"I will say that it is an honor and a privilege to be selected, and I am excited about this opportunity to work with EPA and fellow panelists," she said.

An Inhofe spokeswoman could not be reached for comment Friday or today. But in a statement released over the weekend, the head of one business advocacy group attacked McCarthy's decision as evidence that EPA "does not care about independent voices and fresh perspectives."

The agency had "numerous, highly qualified nominees to choose from," Karen Kerrigan said on behalf of the Center for Regulatory Solutions, an offshoot of the Small Business and Entrepreneurship Council.

"This decision proves that CASAC is simply a tool of the EPA — with candidates selected on their predisposition to agree with EPA's predetermined conclusions," Kerrigan said.

Among the other nominees were state regulators from Georgia, Arkansas, Ohio and Texas. Kenski's appointment was a particular setback for Michael Honeycutt, director of toxicology for the Texas Commission on Environmental Quality, who had mounted an unusual lobbying campaign to rally support for his candidacy (*Greenwire*, Aug. 26).

In a statement released late Friday by a commission spokeswoman, Honeycutt wished Kenski the best and called her "highly qualified" to serve on CASAC. He also expressed continued interest in joining the committee if nominated when Kenski's new term expires in three years.

it nominated when Kenski's new term expires in three years.

Inhofe, along with other lawmakers and business advocates, had also urged McCarthy to correct what they see as a tilt in favor of appointees from California and the Northeast to the detriment of the South and West.

The Association of Air Pollution Control Agencies, whose membership includes numerous states in the latter two regions, had also cited concerns that state and local agencies were not adequately represented on the CASAC and the "subpanels" that do much of the work in reviewing standards for specific pollutants.

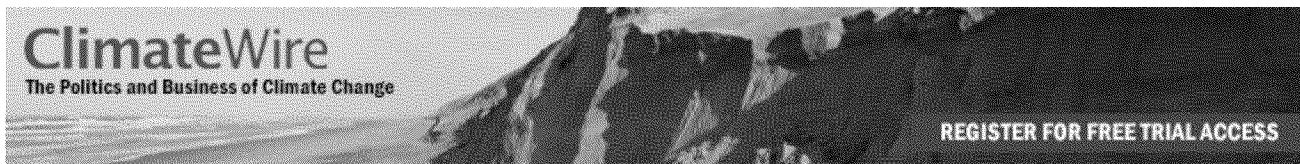
In an interview, Clint Woods, the association's executive director, said the group was "very pleased" that some of the nominees came from its member agencies and that McCarthy had a "very highly qualified pool" to choose from. The association will continue to urge EPA to consider candidates' abilities to offer "on the ground" perspectives in implementation of air quality standards and other issues when making future advisory committee appointments, he said.

Kenski replaces George Allen, a senior scientist with the Boston-based Northeast States for Coordinated Air Use Management, who had served two terms on the committee. Allen's term was set to expire at the end of last month; following standard practice, Allen said in an email Friday that he will continue to serve on CASAC review subpanels for particulate matter, sulfur dioxide and nitrogen dioxide.

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## AIR POLLUTION:

### EPA agrees to review flaring emissions formula

Sean Reilly, E&E reporter

Published: Monday, October 10, 2016

U.S. EPA will revisit a key gauge for estimating emissions of volatile organic compounds from natural gas production flaring operations under a tentative settlement to a lawsuit brought by four Gulf Coast environmental groups.

The proposed consent decree was lodged Friday afternoon with the U.S. District Court for the District of Columbia as part of a prearranged agreement one day after the suit was filed. It calls on EPA to review the "emissions factor" by next June, with a final decision on any revisions following by February 2018.

In the suit, Air Alliance Houston and the other plaintiffs alleged that EPA hadn't looked at the formula since 1985, contrary to a Clean Air Act requirement for reviews every three years.

The upshot could be misleadingly low estimates of emissions of volatile organic compounds, a key contributor to smog, the suit alleged.

The proposed settlement, which still needs a judge's approval, "is important for public health reasons because people who live downwind from drilling and fracking sites have a right to accurate information about how much air pollution they are breathing," said Sparsh Khandeshi, an attorney for the Environmental Integrity Project, in a press release. Khandeshi was one of the lawyers representing the plaintiffs.

In this instance, the existing emissions factor estimates that 5.6 pounds of volatile organic compounds (VOCs) are released from flares for every million cubic feet of gas produced.

But that estimate assumes that flaring achieves a 98 percent destruction efficiency, while more recent EPA and Bureau of Land Management regulations assume that the rate is 95 percent, the suit said.

The other three plaintiffs are the Community In-Power and Development Association, based in Port Arthur, Texas; Louisiana Bucket Brigade; and Texas Environmental Justice Advocacy Services.

If EPA decides that changes are warranted to the existing emissions factor, many of the approximately 1 million natural gas drilling and production sites around the United States could be affected, according to Friday's release.

VOCs are a class of chemicals that include benzene, toluene and formaldehyde. In sunlight, they react with nitrogen oxides to form ozone, a lung irritant that is the primary ingredient in smog.

EPA relies heavily on emissions factors — which number more than 1,700 for some 200 different pollutants — as a substitute for direct monitoring. Last year, in response to a 2013 suit by the same four plaintiffs, the agency released a package of eight revised or new emissions factors for the chemical manufacturing and refinery industries (*Greenwire*, April 21, 2015).

The earlier suit was brought after sampling registered VOC levels over Houston oil refineries that were far higher than what industry reported, based on the emission factors in use at that time, Friday's press release said. The revised formulas showed that flares from refineries and chemical plants were releasing VOCs at about four times the levels of previous estimates.

"Members of industry have a saying, 'What gets measured gets improved,'" said Adrian Shelley, executive director of Air Alliance Houston, in a statement. "Only by accurately measuring emissions can we reduce pollution and protect public health."

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## OIL AND GAS:

### Texas nun uses industry money to combat fracking

*Published: Monday, October 10, 2016*

Sister Elizabeth Riebschlaeger, an 80-year-old Texan nun, is on a mission to stop fracking in her town by using oil company money.

"I call it redeeming the money," Riebschlaeger said while munching a turkey sandwich in a bar.

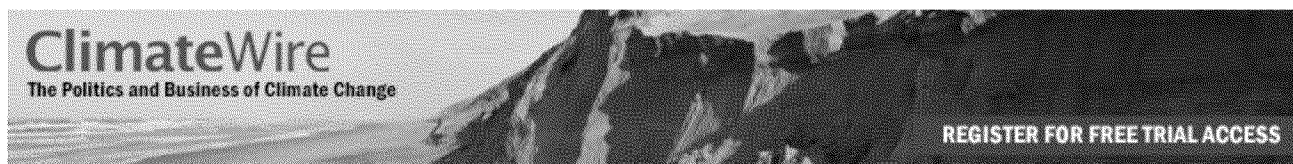
When fracking became more popular in the Eagle Ford Shale nearly six years ago, a company offered to lease the mineral rights to land that Riebschlaeger's grandfather bought in the 1920s.

Riebschlaeger did not like the idea, but her lawyer told her the company would find a way to get the land rights with or without her consent.

"What I'll do is I'll take the money and use it for something that will promote responsible development," she decided.

The nun decided to donate her oil and gas money to watchdog activities, holding industry accountable and warning the public of the effects of get-rich-quick "capitalism without moral or ethical values," she said (Tom Dart, *London Guardian*, Oct. 9). — AS

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# What 'Deepwater Horizon' gets right —and wrong

A professor of petroleum engineering fact-checks the movie

Eric van Oort, University of Texas-Austin | October 10, 2016 | Updated: October 10, 2016 8:00am

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Photo: Summit-Lionsgate Films

When I went to see the movie “Deepwater Horizon” with some of my graduate students last week, I did not expect accuracy. Drilling for oil and gas is not typically viewed favorably or depicted correctly in Hollywood movies.

When I tell non-oilfield people that I am a professor of petroleum engineering, someone usually brings up the dreadful movie “Armageddon,” in which Bruce Willis’ character, Harry Stamper (“the best deep-sea driller in the world”), is coerced into giving up his offshore drilling job to embed a nuclear bomb into an asteroid that threatens all life on Earth. Conditions on Stamper’s rig, with explosions hurling people through the air, bear little resemblance to the safe, well-controlled environment that one finds on virtually all deepwater rigs around the world.



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I had other reasons for low expectations. Most people seem to remember that the Macondo/Deepwater Horizon blowout (more about this terminology below) caused the worst environmental oil spill in U.S. history, but forget that it also killed 11 offshore workers. The idea of Hollywood profiting from sensationalizing this tragedy seemed quite inappropriate to me.

In the dedicated class that I teach on this disaster, I stress not only that many technical mishaps contributed to it, but also that leadership failures – largely by BP, the company that owned the well — allowed the blowout to occur. I did not think it would be possible to explain the complexities and nuances in a two-hour movie. And I worried that the film would not convey the fact that virtually all of today’s deepwater wells are safely constructed.

Overall, though, my students and I agreed that “Deepwater Horizon” deserves its largely positive reviews. The movie gets a number of points about the blowout wrong, but it accurately depicts the atmosphere on an offshore drilling rig. It is also a fitting



testament to the workers who died in this disaster, and to others who are working to make offshore drilling safer today.

### Technical failures and bad decisions

There are many inaccuracies in “Deepwater Horizon.” Some are small: For example, Mike Williams, chief electronics technician for Transocean (Mark Wahlberg), barrels down a flight of stairs on the rig carrying his luggage without holding any handrails, which would be a clear violation of Transocean safety policy. Other errors are much larger: The movie depicts gas breaking out around the wellhead even before the blowout event, but such a “broach” of gas to the seafloor never occurred.

Like investigations of the event, the movie focuses primarily on the ill-fated and malfunctioning blowout preventer – the device designed to seal any fluids and gas beneath it and prevent them from coming to surface. But it ignores many important facts that are essential to understanding why the blowout occurred.

As just one example, BP made an ad-hoc and, in hindsight, poorly informed decision to circulate a fluid waste mixture into the well instead of disposing of it as waste onshore. Operators sought to use the fluid as a “spacer” to separate seawater from dense drilling mud in the well, but the solids-laden fluid may have plugged a critical line and skewed results from two “negative tests” that were designed to verify that the well was tightly sealed. The movie shows confused rig staff trying to interpret the test results, but offers no explanation.

Animation of the Macondo/Deepwater Horizon blowout, produced by the U.S.



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The Deepwater Horizon poster.

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Chemical Safety Board.

The movie also gives short shrift to the implications of removing the weighted column of mud that forms a primary barrier against oil and gas rising in the well. This mud barrier is removed when drillers plug and abandon a well, but the process can precipitate a blowout if oil and gas formations deep in the well are not properly sealed with steel casing and cement. In the film, Mike Williams' young daughter explains the process using a soda can and straw as props, resulting in a "soda blowout." This scene comes very early, passes in an instant, and many viewers may not grasp its significance.

More broadly, the title of the movie is wrong: it should be "Macondo" (or at least "Macondo/Deepwater Horizon"), since Macondo was the name of the well that blew out. "Deepwater Horizon" was the name of the Transocean semi-submersible drilling rig that BP leased. As the movie shows, this rig had safely drilled numerous wells before Macondo. Names do matter: In the aftermath of the disaster, BP consistently referred to it as the "Deepwater Horizon" event, apparently trying to shift blame to Transocean.

## Heroes and villains

On the positive side, "Deepwater Horizon" cleverly tells a human story through the eyes of Mike Williams, who becomes the hero once the rig catches fire and lives are at stake.

The casting is excellent, and I recognized the workers' camaraderie and sense of duty from my own experience working offshore in the Gulf of Mexico. "Deepwater Horizon" also captures the often-tense relationship between the oil company operator (in this case, BP) and the rig



Photo: David Lee

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Wahlberg as oil rig worker Mike Williams.

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contractor (here, Transocean) which often makes it difficult for the latter to go against the former's wishes. Kurt Russell is excellent as the frustrated offshore installation manager, James "Mr. Jimmy" Harrell, and Mark Wahlberg's performance is good enough to forgive him for not just one but two "Ted" movies.

Some performances are almost too good. John Malkovich portrays BP well site leader Donald Vidrine as a sly, uncaring villain, and the movie pins responsibility for the blowout squarely on Vidrine and rig supervisor Robert Kaluza, played by Brad Leland.

Vidrine and Kaluza were indicted after the spill for involuntary manslaughter, based on their negligent supervision of two negative tests. In the movie Vidrine attributes high pressure in the drill pipe during the first negative test to an illogical "bladder effect," and overrules Transocean on the second negative test.

The truth is more complicated. The "bladder effect" hypothesis was raised by a Transocean crew member, not by BP, to explain ambiguities in the second negative test, not the first. (In general, "Deepwater Horizon" takes Transocean's side of the story; I believe this perspective is appropriate, but filmmakers still should strive for balance and accuracy.)

Moreover, the blowout did not result from a single bad decision, but from a whole series of events that allowed barriers meant to prevent a catastrophic event to become compromised. In my view, most of this happened due to poor decisions by BP managers, both at the rig site and in the office, who were trying to curtail spending on a well that was behind schedule and significantly over budget.

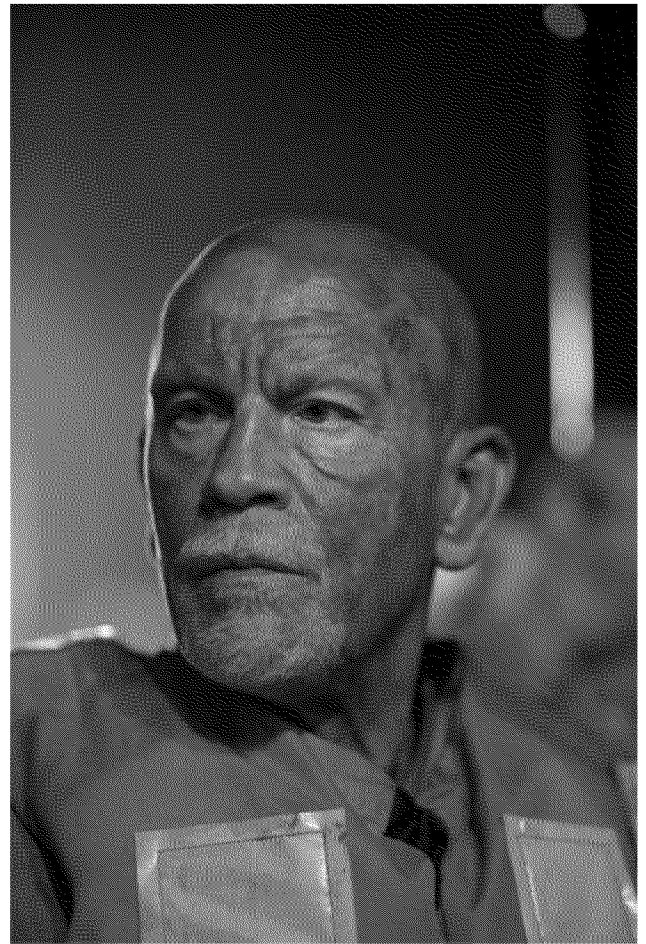


Photo: David Lee

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John Malkovich portrays BP well site leader Donald Vidrine as a villain – which lets BP's culture off the hook.

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“Deepwater Horizon” shows one example, when BP sends a Schlumberger crew home without performing a cement bond log – a measurement to verify the presence and quality of the cement used to seal the oil and gas-bearing rock formations. Without a bond log, there was no way to verify the presence of cement, let alone its quality.

Many viewers will be outraged to learn at the end of “Deepwater Horizon” that manslaughter charges against Vidrine and Kaluza were dismissed in 2015. But these men represented an organization with a culture of cost-cutting and excessive risk-taking that also was responsible for a deadly explosion at a Texas City refinery in 2005 and a massive oil spill from the Trans-Alaska Pipeline in 2006. By portraying Vidrine and Kaluza as the only guilty parties, “Deepwater Horizon” ignores the larger failure of BP’s corporate leadership.

Despite these flaws, “Deepwater Horizon” is worth seeing and will certainly provoke questions. My students wanted to know much more about both technical issues and leadership mistakes after seeing the movie. Asking these questions will serve them very well in preparing then for future leadership roles in this global industry.

The offshore industry has made significant safety improvements since the Macondo/Deepwater Horizon tragedy, and the Interior Department has adopted a new well control rule that sets tighter standards for offshore well construction. More work remains to be done, however.

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What 'Deepwater Horizon' gets right—and wrong



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For my part, I hope this movie will lead to better public understanding of exactly what happened on April 20, 2010, and serve as a permanent reminder to all stakeholders involved to remain vigilant to prevent a repeat occurrence.

*Eric van Oort is a professor of petroleum engineering at the University of Texas at Austin.*

*This article was originally published on The Conversation. Read the original article.*

*Bookmark Gray Matters. Conditions there, with explosions hurling people through the air, bear little resemblance to the safe, well-controlled environment that one finds on virtually all deepwater rigs around the world.*

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# Experts will discuss tough choices facing Louisiana as seas rise and land sinks

By Bob Marshall, Staff writer 17 HOURS AGO

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Should the mouth of the Mississippi River be moved north to Port Sulphur, or even English Turn on the lower coast of Algiers?

Can the state's Coastal Master Plan save communities south of U.S. 90, or should they start planning to move now?

Will the U.S. Army Corps of Engineers need to dredge a new shipping channel for the Port of New Orleans?

Experts will discuss these and other serious choices stemming from rising seas and sinking land during the annual Water Symposium (<http://www.anbadlofestival.org/water-symposium-1>) on Thursday. It will be held at the Healing Center, 2372 St. Claude Ave., at 5:30 p.m.

The panelists will be:

- Denise Reed, chief scientist at the Water Institute of the Gulf
- Steve Cochran, campaign director of Restore the Mississippi River Delta Coalition
- Clinton Willson, an environmental engineer at Louisiana State University
- Robert Nairn, director of the engineering firm Baird and Associates
- Deborah Keller, CEO of Deborah D. Keller and Partners engineers

David Muth of the National Wildlife Federation will moderate the discussion. "We'll be focusing on how to manage the lower river for navigation, restoration and flood control in the face of these very serious changes coming our way," he said.

"Sea level rise is the most obvious, but we also have serious subsidence in that area," he said. The Bird's Foot Delta, where the river splits into many channels and dumps into the Gulf, is sinking about 8 feet a century, he said.

Experts will be available to talk with the audience at a potluck dinner after the event.

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“[Haiti] is a country with a lot of hope.”

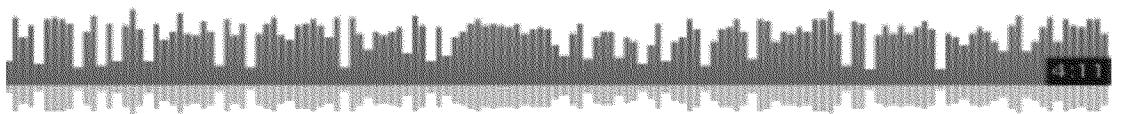


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United Nations Development Programme/Flickr (CC BY-NC-ND 2.0)

Haiti is still recovering from the earthquake in 2010.

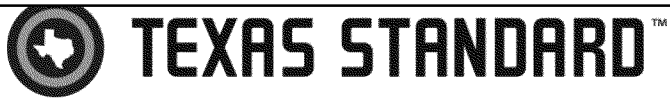
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If you took hundreds of multicolored matchsticks and shook them around in a shallow box, it would look a lot like the aerial photos now coming in from the southwestern part of Haiti. As the U.S. buckles down to deal with Hurricane Matthew, three days after striking the island of Hispaniola, we're only now realizing the scale and scope of the destruction there.

Although the Haitian capital city was spared from the worst damage, information of the devastation to rural towns and cities has been trickling in. As the water recedes, more bodies are found. A faith-based relief group from Stafford, Texas called **Living Water International** had a team already working in Haiti before the storm, trying to help with the effects of a cholera epidemic.

Wesley Charles is the group's vice president of Latin America and the Caribbean. He says there are 34 of his staffers on the ground. And while the effects of Hurricane Matthew are devastating on their





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# Flood, rebuild, repeat: Louisiana top state in repetitive flood losses; experts cite 2 key reasons

BY AMY WOLD | [AWOLD@THEADVOCATE.COM](mailto:AWOLD@THEADVOCATE.COM) OCT 8, 2016 - 2:17 PM



Advocate staff photo by BILL FEIG

Aerial of severe flooding on Plank Road near Baker in East Baton Rouge Parish on Sunday August 14, 2016.

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Amy Wold

Louisiana leads the country in properties that are repeatedly swamped by water and rebuilt using flood insurance payments, with state residents receiving \$1.2 billion since 1978 for damage to houses and businesses that have flooded multiple times.

Experts say a large part of the problem lies with a federal flood insurance system that encourages rebuilding in flood-prone areas while mitigation measures receive less-than-needed funding. People who want to raise a house or get bought out often hit bureaucratic stumbling blocks, or just wait in line for so long that they end up just fixing up in the same location.


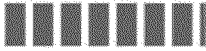


















“As it works now, the flood insurance program, it traps them there,” said Rob Moore, senior policy analyst with the Natural Resource Defense Council. “The National Flood Insurance Program has to have a bigger emphasis on mitigation and prevention.”

As flood waters were about to hit Louisiana, the NRDC published an article looking at repetitive losses and the need for reform in how the nation reacts to these events. Many critics have also argued there are also more systemic problems with local government responses to repeat flooding, saying they should block development in high-risk areas and impose additional flood protection measures like elevation requirements above the federal minimums.

“Money alone isn’t going to fix the problem,” Moore said.

Louisiana's more than \$1 billion share of repetitive loss claims, which the NRDC received data on through 2015, represents payments to 7,223 properties. Each fits FEMA's definition of severe repetitive loss by having more than four claim payments over \$5,000 each.

# STATES WITH MOST REPEAT FLOOD LOSS, 1978-2015

PAYMENTS TO SEVERE REPETITIVE LOSS PROPERTIES			NUMBER OF PROPERTIES
Louisiana	 \$1.2 billion		7,223
Texas	 \$962 million		4,889
New Jersey	 \$662 million		3,246
New York	 \$403 million		1,802
Florida	 \$365 million		1,601
Pennsylvania	 \$252 million		1,214
Mississippi	 \$196 million		1,353
Missouri	 \$192 million		1,526
Alabama	 \$172 million		752
North Carolina	 \$134 million		975

Source: Natural Resources Defense Council

Advocate graphic by DAN SWENSON

BY DAN SWENSON | THE ADVOCATE

Louisiana parishes and communities take eight of the top 25 spots in the country for repetitive flood loss, with Orleans Parish at number one and East Baton Rouge Parish at 24th place.

In East Baton Rouge, the most recent numbers show there are 968 structures classified as repetitive loss, including 179 considered severe repetitive loss. Many, if not most, of these properties flooded again during the August floods that devastated the region.

But parish officials say they only have enough federal money to buy out as many as 10 properties a year, leaving a lot of people waiting, repairing a house that is likely destined to flood again. The homes are clustered all over the parish in low-lying areas or where waterways tend to converge or see backwater flooding become an issue.

“Far too many communities and far too many people believe these are one time events and continue to build in places destined to flood,” Moore said. That desire to rebuild as if flooding will never happen again is not just an issue in Louisiana, but is repeated across the country. More properties are added each year to the list of repetitive flood loss than are removed through mitigation measures like home elevation or buy outs.

## Resilient rebuilding

In late September, Congress voted to give Louisiana \$500 million, in part to help homeowners rebuild. At that time, Gov. John Bel Edwards said building resilient communities that are better able to survive or bounce back from a natural disaster will be part of that work.

Exactly what resilient communities will look like isn't clear. Richard Carbo, the governor's communication director, said the state is starting the planning process, but suggested some initiatives could include drainage improvements and home elevations.

As many Baton Rouge-area parishes have seen in the last couple months, it can be tough for a local community, already devastated by flooding, to make the process more difficult for residents by enforcing stringent flood mitigation requirements. In fact, many local governments have eliminated some of the tougher rebuilding standards that had been in place before the August flood.

"Our number one priority is certainly getting people back in their homes," said Jr. Shelton, Central's mayor, a town in East Baton Rouge Parish that saw widespread damage.

Under FEMA rules, homes in high-risk flooding areas that are more than 50 percent damaged by a flood and below base flood elevation are required to elevate to at least that level, something that remains true for Central residents.

One action the city took was to eliminate the requirement for one-foot of freeboard over the base flood elevation for certain reconstruction -- a tougher measure than the federal minimum -- although any new construction still will need to meet that requirement, he said.

"If you got to elevate homes, you're going to wipe out whole subdivisions," Shelton said. He said the city got estimates of \$65 a square foot to elevate homes meaning that a 1,800 square foot home would come in at \$117,000 for elevation.

Shelton has repeatedly emphasized that experts have theorized the rain that caused the flooding was so outside the norm, what some have speculated was a 1,000 year flood, or an event that had a .1 percent change of happening in a year. FEMA creates its maps to a much lower level of probability, the 100 year flood.

"It's such an anomaly," Shelton said.

## Buyouts and elevations

Although the August flood broke records for rainfall and river levels, Louisiana is no stranger to flooding disasters, racking up 15 flood events that prompted a major disaster declaration in the last 11 years.

Homes placed on a repetitive loss list meet the definition from the National Flood Insurance Program as any property that has had two or more flood insurance claims of more than \$1,000 in a 10 year period.

Severe repetitive loss properties are ones that have had four or more claim payments over \$5,000 each with the combination of claims adding up to more than \$20,000. At least two of those claim payments have been made with the added together amount exceeding the market value of the building, according to FEMA.

At the federal level, money is available to property owners if they are insured and want to rebuild, but getting funding for buyouts or elevation can be time consuming and sometimes costly. Buyouts pay the property owners and then the land is taken out of circulation to become green space, but the process can take years. Other work like elevating a home requires a property owner to come up with 25 percent of the cost, putting the option out of reach for some people.

“The way we do buy outs now is kind of shameful,” Moore said. “There’s a lot that could be done to streamline that.”

In addition, money to do elevation work or even buyouts can be hard to come by despite several annual grant opportunities and a share of disaster response money.

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BY OPPENHEIMERFUND

“In the past, we’ve only been able to buy out seven to 10 homes (a year),” said Joanne Moreau, director of the East Baton Rouge Office of Homeland Security and Emergency Preparedness. “There’s a much greater interest right now, but unfortunately there’s no money in the buyout program.”

Casey Tingle, assistant deputy director for hazard mitigation at the Governor's Office of Homeland Security and Emergency Preparedness, said there are three main grant opportunities for mitigation work, but the state regularly doesn't have enough.

"It's generally the case in Louisiana, specifically related to flooding, there is more need than funding to meet the need," Casey said about mitigation. This isn't the case of Louisiana getting short changed, he said, in fact many people might say Louisiana has gotten more than many other states, but it's not enough.

For example, Ascension Parish got just more than \$1 million in 2015 for buy outs and \$969,210 for home elevation. In 2014, just over \$300,000 was spent.

Currently, three homes have been purchased and are being demolished and another home is pending, according to Martin McConnell, the Ascension public information officer.

These will be the last buyouts in the parish since the previous administration decided to end the buyout program. Instead, Ascension plans to emphasize elevation and other mitigation measures.

Evidence nationally shows that it can be difficult to stop construction in flood prone areas.

Nicholas Pinter, professor of applied geosciences at University of California-Davis, said researchers looked at St. Louis, Missouri, which was hit with major flooding in 1993 and spent \$88 million on buying out properties. A review 10 years later found that despite those properties no longer being available for development, \$2 billion worth of new construction had been built in nearby areas that had also been under water in 1993.

"Flood damage is never only just the water. It's the planning and development decisions," Pinter said.

Insured properties that have flooded multiple times make up just 1 percent of premiums paid to the National Flood Insurance Program, but account for 25 to 30 percent of the losses to the program, which currently has debt of \$23 billion, according to the Pew Charitable Trusts.

The National Flood Insurance Program is up for review next year, but in the meantime one new proposal has been introduced in Congress that would compel communities with repeated flood loss to map and plan to reduce those losses.

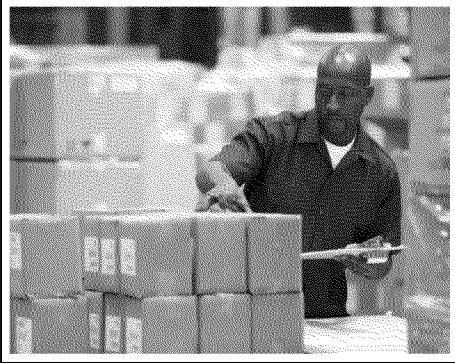
"This is a problem we have to do something about," said Phyllis Cuttino, director of flood prepared communities at Pew Charitable Trust. "We can't do the same thing over and over again."



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### THIS WEEK'S CIRCULARS



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## Miami Commission To Debate Effects Of Fracking On Water Supply



*By Peak Johnson*

Fracking continues to stoke debate in certain parts of the country, with officials in Miami-Dade County, FL, proposing a ban on the practice.

A county commission will debate this issue tomorrow, according to the *International Business Times*. The suggestion of the ban comes months after the state Senate failed to pass legislation that would have prohibited local governments from regulating fracking by themselves.



“This is about our water supply,” Daniella Levine Cava, a commissioner and the sponsor of the ordinance, told the *Miami New Times*. “In this kind of acid fracking, the chemicals are potentially very dangerous and not disclosed. The risk of them entering into our water supply through our porous limestone substrate is too high.”

According to the *International Business Times*, fracking is highly controversial in Miami-Dade County because the land sits upon the Biscayne Aquifer, which supplies water to a large number of Floridians. Fracking in the county would require penetrating that aquifer.

Scientists have said that if that water supply were polluted by any source then it would remain polluted forever, according to the *International Business Times*.

Hydraulic fracturing, as it is also known, produces wastewater that is often pumped into underground wells for disposal. This practice has been linked to a growing number of earthquakes in Oklahoma, Colorado, Ohio, and other states, according to *The Washington Post*.

Ohio, Texas, and Oklahoma are the only states to have made it illegal for local governments and communities to ban fracking.

The International Business Times reported that fracking became formally legal in Florida earlier this year. Much of the state sits atop “fragile aquifers and the state has a sponge-like geology” and residents have been proactive in voicing their concerns.

The EPA found last year that fracking does not pose a huge danger to drinking water, and the agency has been criticized over that conclusion.

To read more about fracking visit Water Online’s Produced Water Treatment Solutions Center.

*Image credit: "Fracking LA, October 9, 2013" Erick Gustafson © 2013 used under an Attribution 2.0 Generic license: <https://creativecommons.org/licenses/by-nc/2.0/>*

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## TAILINGS OF TWO CITIES: BEST OF TIMES, WORST OF TIMES

Susan Dunlap [susan.dunlap@mtstandard.com](mailto:susan.dunlap@mtstandard.com) Updated Oct 9, 2016



Susan Dunlap, The Montana Standard

Harrison Avenue in Leadville, Colorado, is seen in this photo taken last month. Originally populated by Irish immigrants to work the underground mines, Leadville has much in common with Butte.

LEADVILLE, Colo.—Though hundreds of miles apart, the boom times and the bad times bring two old mining towns close in shared stories.

Turn onto Harrison Avenue. Sidle up to the bar at the Silver Dollar Saloon. Drive by black slag piles from decades of smelting on the way into town.

Welcome—not to Butte or Anaconda, Montana, but to Leadville, population around 3,000. The Environmental Protection Agency added the town to the National Priorities List for cleanup in 1983—the same year as Butte and Anaconda. Nestled in the Rocky Mountains two hours west of Denver, Leadville was established in the late 1800s because men landed there looking for gold—the same as Butte. A largely Irish immigrant town, Leadville looks a lot like Butte. Leadville's residents built so close to mine shafts and tailings piles that the town itself became a Superfund site when EPA arrived more than 100 years later.

That designation brought a great deal of anger. It is anger that still simmers in the old mining town and is easy to find decades later.

“Most of the (Leadville) population loathed EPA,” said former Lakeville County commissioner Ken Olsen. Despite the widespread pollution, Leadville didn't relish federal help, or the Superfund tag that came with it.

Now, 33 years after the designation, Leadville is nearing its end as a Superfund site.

Because of old mine workings, Leadville has two water treatment plants that clean water from acid rock drainage and metals contamination. Thanks to decades of smelter smoke, Leadville also got a residential abatement program—just like Butte.

## TREATING MINE WATER

Leadville residents woke up one day in 1983 to find the Arkansas River running red.

Located at the headwaters of the Arkansas, Leadville now has two water treatment plants, one on the east end of town and one on the west side of town—just like Butte.

On the western side of Leadville is the California Gulch water treatment plant. It uses lime and a clear, stringy-looking substance called a polymer to drop cadmium and zinc out of the water. Handling about a million gallons of water a day, the California Gulch operation is smaller than both Butte's Horseshoe Bend water treatment plant and the Butte Treatment Lagoons southwest of Butte. (See information boxes.)

Operations manager Will Santos is so sure of the water that comes out of the California Gulch plant that he drinks it.

"I know it meets water quality standards," Santos said, pointing out that he and his family live in town and "everyone" in Leadville knows where he works.

Similarly, the Leadville Mine Drainage and Treatment Plant on the town's eastern edge drops cadmium, manganese, iron and zinc out of the water. Like Butte's water treatment plants, Leadville's water treatment plants target cadmium, because that is the most difficult metal to remove, said Leadville Treatment Plant supervisor Jenelle Stefanic.

Once treated, the water coming out of the plant "is cleaner than drinking water," said Stefanic.

Like Santos, she can back up that claim with the fact that the Colorado Parks and Wildlife Commission gave a 102-mile stretch of the Arkansas River, starting at its headwaters, a Gold Medal Trout Water award in 2014.

## LEAD ABATEMENT PROGRAM

Due to smelter waste, EPA implemented a residential abatement program in Leadville in the 1990s to get lead out of people's back yards and homes. EPA set the trigger point to activate a cleanup at 3,500 micrograms of lead per kilogram in the soil in a Leadville residence. It is a threshold many times higher than EPA has set elsewhere -- even two and a half times the level set in Butte, which is higher than most.

Colleen Nielsen, director of the Lake County Public Health Agency, said the local health department works to educate the local public on lead exposure, particularly since Leadville, like Butte, is mostly made up of old housing that contains lead-based paint. According to EPA, blood lead levels in Leadville children have decreased over the years to less than one percent of EPA's recommended levels.

While residents' yards and interiors are cleaned up, Leadville does not have an attic dust abatement program. (See information box.)

## ECONOMIC DEVELOPMENT

Though Leadville saw its molybdenum mine shut down in the 1980s due to low commodity prices—just like Butte—Freeport-McMoRan Inc. started up the “moly” mine again in 2012. Still, Leadville has suffered hard times since the 1980s and has struggled to try to reinvent itself.

Nicole Thompson, executive director of Leadville Lake County Economic Development Corporation, said the stigma of being a Superfund site has been difficult for the town of Leadville to overcome.

“We’ve seen challenges trying to develop property,” Thompson said.

Thompson said one of the more positive things to come out of Leadville's cleanup process was the Mineral Belt Trail—a 12-mile trail that loops around the perimeter of the town.

Lake County commissioner Bruce Hix said the stigma of being a Superfund site impacted the town, but he thinks it isn't hurting Leadville's tourism industry now. He added that with the ski resort town of Vail nearby, Leadville has begun to attract second-home owners.

The Trail 100—a grueling race series including a 100-mile run, a 100-mile bike ride, a trail marathon, a 50-mile run and a 10k —brought 2,000 people to Leadville in 2016. Hix said the race, started in 1983, was conceived by its founder—a former miner—as an economic stimulus. Hix said the race “gets bigger every year.”



Thompson said Leadville has received some grant money from EPA but did not receive community development dollars from the responsible party, American Smelting and Refining Company LLC (ASARCO).

ASARCO declared the largest environmental bankruptcy filing in U.S. history. EPA received \$8.8 million from ASARCO to clean up Leadville, according to EPA's website. (See information box.)

## ANGER STILL SIMMERS

Despite the cleanup in Leadville, anger percolates in the small Colorado mining town over EPA. That anger, even after all these years, is not hard to find.

Carl Miller, a Leadville miner who worked underground for 26 years, said that in the 1980s, "EPA came in like gang busters."

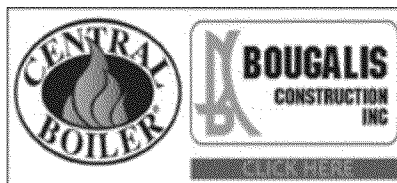
Olsen said Leadville's destiny fell into the hands of the EPA once the town became a Superfund site. He talked about the difficulties of working with a large, powerful federal bureaucracy, saying cleanup work in Leadville happened "in fits and starts." But after 33 years, Olsen said, "no one cares anymore."

"They're (the town is) worn out. You can't stay excited about this for 30 years," Olsen said.

Despite the town's heartache over cleanup issues, EPA's work in the highest incorporated city in the U.S. has brought at least one bright spot to a town that sits at 10,500 feet elevation.

"The Arkansas is now one of the top rivers in the country. It's been a long climb there. The quality of the water was barely above standards (in the past). Now it's one of the best fishing spots in the country," said Santos.

*This article originally ran on [mtstandard.com](http://mtstandard.com).*



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### Judge Rejects Public Access to EPA 'Revolving Door' Investigation

[Angela Neville](#), Texas Lawyer

October 7, 2016 | [0 Comments](#)

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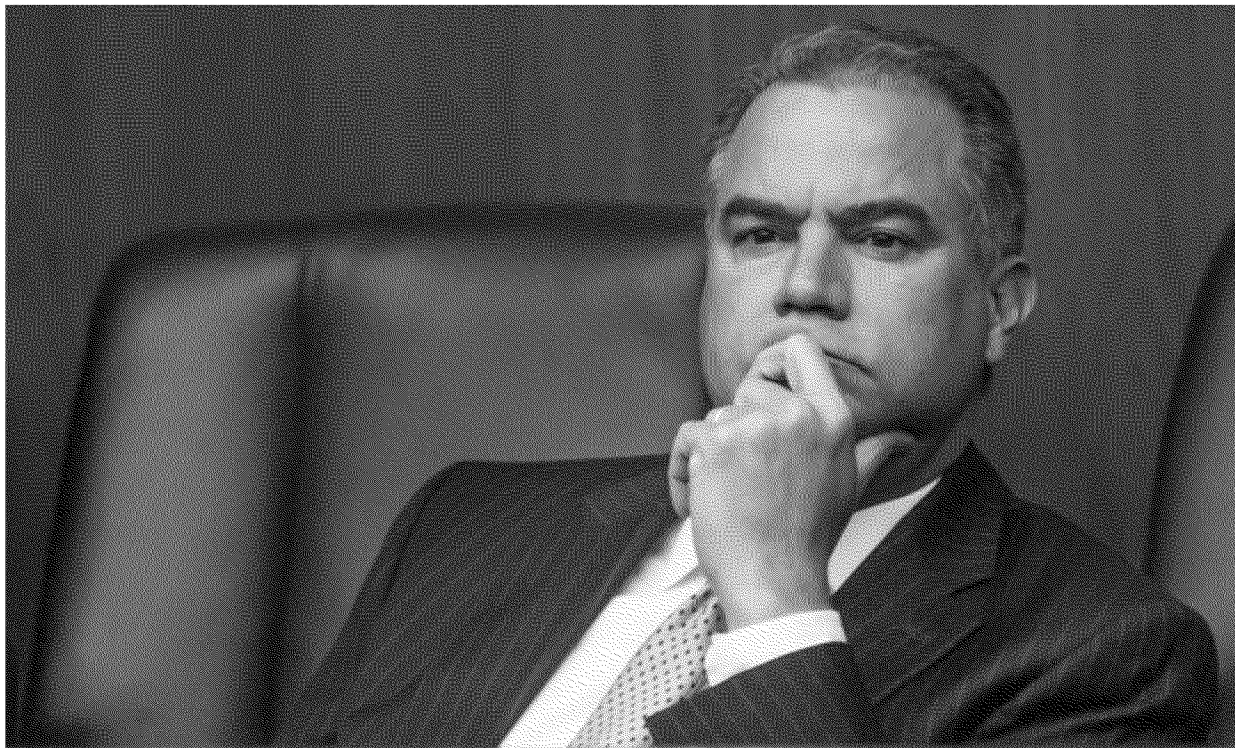
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Judge Christopher "Casey" Cooper, of the U.S. District Court for the District of Columbia, during the court's Reentry Court Inauguration Ceremony. June 6, 2016. Photo by Diego M. Radzinski/THE NATIONAL LAW JOURNAL.

Diego M. Radzinski

An environmental group has lost its bid to view documents about a "revolving door" investigation in which a former federal chemical safety official later advocated for his client Chevron Corp. in front of his previous employer.

Public Employees for Environmental Responsibility sought records from the U.S. Environmental Protection Agency's inspector general office concerning a potential violation of federal "revolving-door" prohibitions by a former chairman and member of the U.S. Chemical Safety and Hazard Investigation Board.

The former board member, not named in court papers, participated in an investigation of a California refinery operated by Chevron where an explosion in 2012 injured workers and thousands of nearby residents. The chemical safety board in 2014 asked the EPA's inspector general's office to investigate whether the former official's advocacy for Chevron in front of the board—after he left his employment there—violated restrictions on former agency officials.

Environmental regulators disclosed nearly nine hundred pages of records but partially redacted or withheld other pages under the Freedom of Information Act. The court dispute in Washington focused on whether the attorney-client privilege allows an agency to withhold memoranda written by investigators to agency lawyers to secure legal advice regarding the liability of an outside party.

U.S. District Judge Christopher Cooper in Washington concluded last week that the privilege does shield the documents. Cooper upheld the EPA inspector general's justification to withhold 23 pages of emails and investigative memos. Most of the documents, Cooper said, were written by inspector general or EPA lawyers "for the purpose of seeking legal advice from either OIG or EPA attorneys in connection with an identified, potential revolving-door violation."

Cooper said in his ruling that the case "involves advice given in response to a particular complaint regarding a specific suspicion of illegal misconduct, and there is no contention that the advice contained in these withheld documents has been applied in some precedential way beyond those particular circumstances. In other words, there is no concern that the withheld documents constitute a shadowy body of 'secret law.' "

Laura Dumais, staff counsel at Public Employees for Environmental Responsibility, said the group knew the EPA's inspector general investigated the allegations and that the office declined to refer the matter to the U.S. Justice Department.

"We simply wanted to know what basic factual findings (not legal conclusions) the investigator made in declining referral," Dumais said in an email to Texas Lawyer. "We argued that the investigation was of an outside party and its outcome would not implicate EPA's own interests (at most, it would have resulted in a referral to DOJ), thus the purposes of the attorney-client privilege were not implicated."

The federal revolving-door rule restricts the activities of individuals after they leave government service. None of the statute's restrictions bar an individual from accepting employment with any private or public employer. Instead, the restrictions prohibit individuals from engaging in certain activities on behalf of persons or entities.

Under the federal revolving-door rule, certain high-level officials are subject to a "cooling-off" period. For a period of one year after leaving a "senior" position, a former senior employee may not represent another person or entity before the former employee's former agency.

Dumais said the EPA case highlights "how easy it is for IGs to use the remarkably broad attorney-client privilege to evade scrutiny."

"Congress famously enacted the FOIA so citizens could know 'what their government is up to,' " Dumais said. "Although we have the highest respect for Judge Cooper, we were hoping for a ruling that let citizens see what the EPA IG was up to when it discounted serious allegations from the [chemical safety board] chair himself that a former Board member violated the law after leaving EPA."

Bill Miller, a spokesman for the U.S. Attorney's Office for the District of Columbia declined to comment.

Cooper's ruling in *Public Employees for Environmental Responsibility v. EPA - Office of the Inspector General* is posted below.

To print the document, click the "Original Document" link to open the original PDF. At this time it is not possible to print the document with annotations.

Contact Angela Neville at [aneville@alm.com](mailto:aneville@alm.com).

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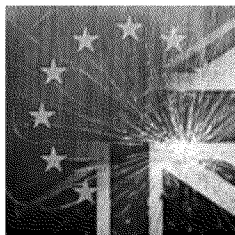
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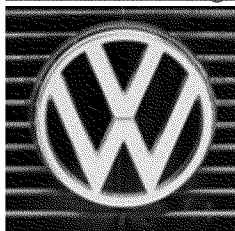
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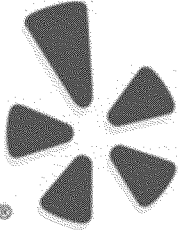


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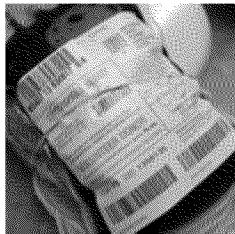
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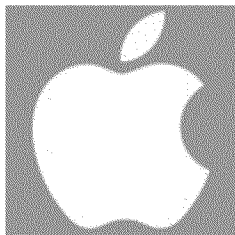
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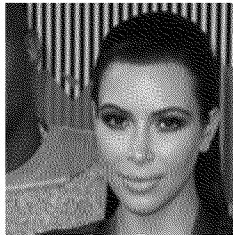
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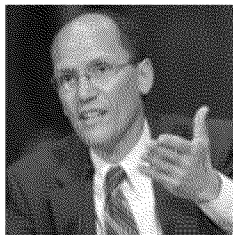
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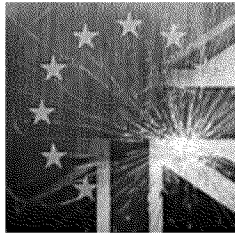
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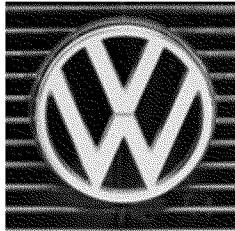


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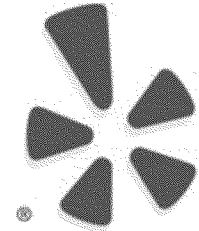
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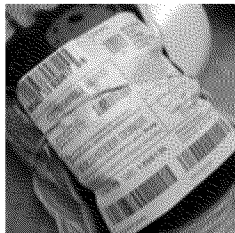
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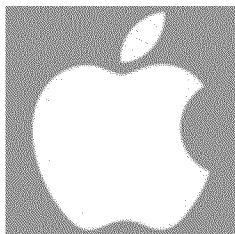
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LOCAL NEWS | WINDMILL COUNTRY

# Watershed protection plan addresses declines



## Llano River plan gets nod from EPA

By Jerry Lackey

Posted:

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Because the Upper Llano River is a healthy ecosystem, the Environmental Protection Agency has accepted a watershed protection plan that will help address future declines in water quality and stream flow, according to a

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The plan was accepted as it met the agency's national guidelines for watershed-based plans and effectively outlined a strategy to conserve and protect water quantity and quality in the watershed, according to plan developers.

The Texas Water Resources Institute, part of the Texas A&M University System, and the Llano Field Station at Texas Tech University Center at Junction assisted the Upper Llano Watershed coordination committee and watershed stakeholders in developing the plan.

"We are very pleased that EPA accepted the Upper Llano River Watershed Protection Plan so quickly. This plan is a result of collaborative efforts of many local, state and federal stakeholders and partners," said Kevin Wagner, deputy director of the institute. "Each participant played a vital role in the planning process."

The Llano River, located in the Texas Hill Country, is a clear spring-fed perennial river and major tributary of the Colorado. The Upper Llano River includes the North Llano, which starts in Sutton County, and the South Llano, which starts in Edwards County. The two branches join at Junction in Kimble County to form the main Llano River.

The Llano supports several unique plant and animal communities and provides constant critical flows downstream to the Llano and Colorado rivers, Lake LBJ and other highland lakes, especially during times of drought.

Watershed protection plans are usually developed to address existing water quality impairments, said Tom Arsuffi, Llano River Field Station director. However, the Upper Llano River is currently a healthy ecosystem.

Arsuffi said areas of concern for many watershed stakeholders include loss of spring flow, spread of invasive species and potential for declines in water quality and stream flows.

"The Upper Llano plan was developed to proactively address these potential threats and improve the sustainability of the watershed." Arsuffi

The Upper Llano planning effort was unique because it is part of the Healthy Watershed Initiative, said Tyson Broad, Upper Llano River watershed coordinator. The program is designed to actively maintain healthy watersheds to preserve the economic and ecological benefits they provide.

"The approval of the watershed protection plan provides landowners with the potential for increased funding opportunities to implement brush control practices and manage feral hogs, plus stabilize eroding stream banks," said Ward Whitworth, coordination committee member and Upper Llanos Soil and Water Conservation District director.

Whitworth said many of the activities in the plan benefit both the landowner and the Llano River.

Arsuffi said the next step is to kick off implementation.

"We are working to secure needed funding to implement the strategies outlined in the plan and to get the word out on the plan and its findings and recommendations," he said. "The EPA's acceptance of the plan maps out the strategy for implementing water quality management plans, wildlife habitat management, feral hog management and septic system education and outreach."

Funding for plan development was provided through a federal Clean Water Act nonpoint source grant to the Texas Water Resources Institute, administered by the Texas State Soil and Water Conservation Board from the U.S. Environmental Protection Agency.

For more information on the watershed plan, contact Broad at 806-834-1170 or [Tyson.broad@ttu.edu](mailto:Tyson.broad@ttu.edu).

*Jerry Lackey is the agriculture editor emeritus. Contact him at [jlackey@wcc.net](mailto:jlackey@wcc.net).*

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# Stokes and Byers: Solution for San Jacinto River Waste Pits should be a full cleanup

By Bob Stokes and Robby Byers | October 8, 2016

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Photo: Michael Ciaglo, MBI

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IMAGE 1 OF 2

Signs near the San Jacinto River Waste Pits U.S. EPA Superfund Site warns people not to enter or consume fish from the area, Friday, Aug. 26, 2016 in Channelview, Texas. (Michael Ciaglo / Houston Chronicle via ... [more](#))

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The Environmental Protection Agency recently made a recommendation for a final cleanup of what has been called the "worst Superfund site in Texas." The San Jacinto Waste Pits lie under and along the banks of the San Jacinto River, east of Houston and just north of Interstate 10. The EPA's recommended solution is the one that the Galveston Bay Foundation has been urging for years: complete removal of the waste and disposal in an off-site, permitted disposal facility. The recommendation is going through a 60-day comment period and will be discussed at a public meeting in the Highlands area of Harris County on Oct. 20. It is imperative that we support this recommendation and finalize the cleanup of a problem that has been studied and debated for years.

In the late 1960s, a waste hauling company called McGinnes Industrial Management Co. ("MIMC") deposited pulp paper waste from the Champion Paper mill in Pasadena into pits it had

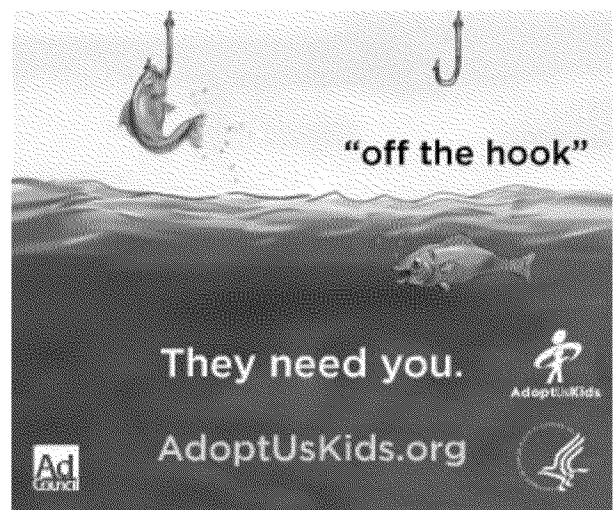
created along the San Jacinto River. MIMC is now a subsidiary of Houston-based Waste Management. Champion Paper was later acquired by International Paper ("IP").

The paper and pulp waste contained high levels of dioxin, a highly toxic, cancer-causing substance. Much of the dioxin was washed into the river in the 1970s when the river altered its course, although much of it remains behind in the pits. It caused significant contamination of seafood in the area, and the impacts arguably have been felt throughout Galveston Bay.

It wasn't until 2005 that a Texas Parks & Wildlife employee was able to find and connect these pits to high dioxin levels in the area. The site was proposed for listing and cleanup under the Federal Superfund program in 2007 and was officially added to the program in 2008.

In July 2009, the EPA began to negotiate temporary cleanup steps with MIMC and IP, which ultimately led to the construction of a temporary armored cap over much of the site that was completed in July 2011. Since then, the armored cap generally has kept the waste in place, but has required many repairs and extensive maintenance.

Between 2012 and 2016, flooding events and/or barge strikes appear to have caused damage to the temporary cap on multiple occasions, potentially exposing the river to additional waste. Despite the cap being



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## OPINION

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designed to withstand a 100-year flood, damage has occurred during much smaller storms.

Since construction of the temporary cap, the EPA has been studying options for a permanent cleanup. They boil down to two options, along with some potential hybrid options of the two. The first would be to leave the waste onsite by reinforcing the cap and leaving it onsite forever. The second would be to dig up and remove the waste and dispose of it offsite. The approximate cost to strengthen the cap and leave it onsite would be \$10 million; the cost to dig it up and dispose of it elsewhere is approximately \$100 million. Not surprisingly, MIMC and IP have advocated for the cheaper cleanup.

It is fair to note that neither cleanup plan is without risk. The concern with digging up the waste and removing it is the risk that some waste will be re-suspended in the process and deposited back into the river. It is a legitimate concern. But the concern with leaving the waste in place is that there is no guarantee that it will stay there; the pits are in an area that is highly susceptible to flooding and storm surge from a hurricane. Flooding has impacted the cap, and we know our area will be hit by a hurricane at some point. And the waste will remain toxic and hazardous to the environment and public health for over 700 years.

How can we ensure the waste stays under the cap for 700 years? We simply can't. And for this reason, the EPA has concluded that removing the waste provides greater permanence and offers less risk than capping the waste in place forever.

MIMC and IP disagree with that assessment and suggest the EPA is ignoring science and technical data. However, the EPA reviewed the full record in this case and came to a conclusion based upon good science supported by the record. The EPA is our country's expert agency on Superfund cleanups and it conducts these cleanups across the country. It reviewed over 900 documents and studies before making its decision. It relied on multiple experts who pointed out that there simply is no way to ensure the waste will remain capped during future flooding events.

MIMC and IP experts may truly believe that it is safer to leave the waste in place. But with the cost difference for capping the site and removing the waste at \$90 million, can any company really view the cleanup options objectively? Let's stop arguing about the right cleanup solution and support the EPA's decision to remove the waste and ensure that all modern cleanup and engineering technologies are used to minimize or eliminate any re-suspension of waste during the

removal process. And let's provide certainty to those who live and fish near the site that this site will finally be cleaned up once and for all.

Stokes is president of the Galveston Bay Foundation. Byers is executive director of the Coastal Conservation Association Texas.

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# Arkansas, EPA Spar Over Federal Regional Haze Plan, an Industrial Info News Alert

10/10/2016

SUGAR LAND, TX-(Marketwired -Oct 10, 2016)-Written by John Egan for Industrial InfoResources (Sugar Land, Texas) -  
-A two-unit, 1,700-megawatt (MW) coal-fired power plant operated by the Arkansas affiliate of Entergy Corporation (NYSE:ETR) (New Orleans, Louisiana) is at the center of a dispute between Arkansas and the U.S. Environmental Protection Agency (EPA) (Washington, D.C.) as federal officials work to improve visibility in federal Class 1 areas in Arkansas and Missouri. The EPA said its Federal Improvement Plan (FIP) would lower emissions of sulfur dioxide (SO<sub>2</sub>) by 68,500 tons per year. Emissions of nitrogen oxide (NO<sub>x</sub>) would be cut by 15,100 tons annually.

Within this article: Details on the federal regional haze plan and its potential consequences for the state.

Companies featured: American Electric Power (NYSE:AEP), Domtar Corporation (NYSE:UFS)

For details, view the entire article by subscribing to Industrial Info's Premium Industry News, or browse other breaking industrial news stories at [www.industrialinfo.com](http://www.industrialinfo.com).

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# Courthouse News Service

Monday, October 10, 2016 Last Update: 5:24 AM PT



## Paper Mill Cleared of Toxic Sludge Claim

By MATT COOPER

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HOUSTON (CN) — Contamination from toxic sludge pits next to the San Jacinto River in Houston was not the fault of the paper mill that produced the waste, a state appeals court ruled.

Harris County and the Texas Commission on Environmental Quality sued International Paper Co. and McGinnes Industrial Maintenance Corp. after the Environmental Protection Agency classified the waste pits as a federal superfund site in 2008. The EPA found that the pits, which are right next to the river, near a bridge for Interstate 10 in east Houston, had leaked dioxin into the river.

The county sought \$1.5 billion in civil penalties against McGinnes and International Paper under the 1965 Solid Waste Disposal Act: penalties for every day since 1975, the effective date of the solid waste act, to the date of the EPA's superfund designation.

Just before closing arguments in the 2014 trial, McGinnes settled for \$29 million, McGinnes's parent company Waste Management said in a statement.

International Paper contracted with McGinnes in 1965 to dispose of waste from its Pasadena, Texas paper mill. McGinnes was to transport the sludge and dispose of it on land McGinnes purchased.

McGinnes abandoned the site after one year, considering it worthless, the three-judge panel of the First District of Texas said in its Oct. 6 ruling. At the time, paper mill waste was not considered toxic; dioxin was not classified as a dangerous substance until 1985.

The Harris County trial court instructed the jury that International Paper did not own the waste, and the "mere fact" that it had contracted with McGinnes for its disposal was not enough to support the county's discharge theory. The county objected to both instructions.

"Again, we don't think the law permits you to escape liability whether you claimed you owned it or didn't own it," an attorney for the county said during opening statements. "It's whether you caused, suffered, allowed or permitted the pollution of the waters of the State of Texas."

But the jury found International Paper not liable for the leaking sludge pits, and said the county should take nothing on its claims.

The county appealed, arguing that International Paper should be liable for the sludge because there was no contract transferring the waste's ownership.

Appeals Court Judge Harvey Brown, writing for the appeals panel, said that the contract referred to the sludge as waste many times.


"A person, generally, does not intend to continue to own 'waste' after the waste-hauler has removed it from the generator's possession," Brown wrote. "The waste-generator intends to divest itself permanently of ownership of the waste."

Because dioxin was not considered toxic in 1965, the county cannot rely on environmental laws that prevent a company from abandoning waste it knows to be toxic, the judge said.

Harris County also argued that that the trial court should have included nuisance or public endangerment in the jury question regarding liability under the waste disposal act.

But Brown said the county's pleadings support a question about the discharge of toxins, not their storage, and that the difference between the two words is significant because the solid waste act defines them in different ways.

"The county's liability theory against IP [International Paper] was premised on its causing or allowing waste to be discharged, not temporarily stored," Brown ruled.

In September, the EPA announced a plan to clean up the superfund site. 

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